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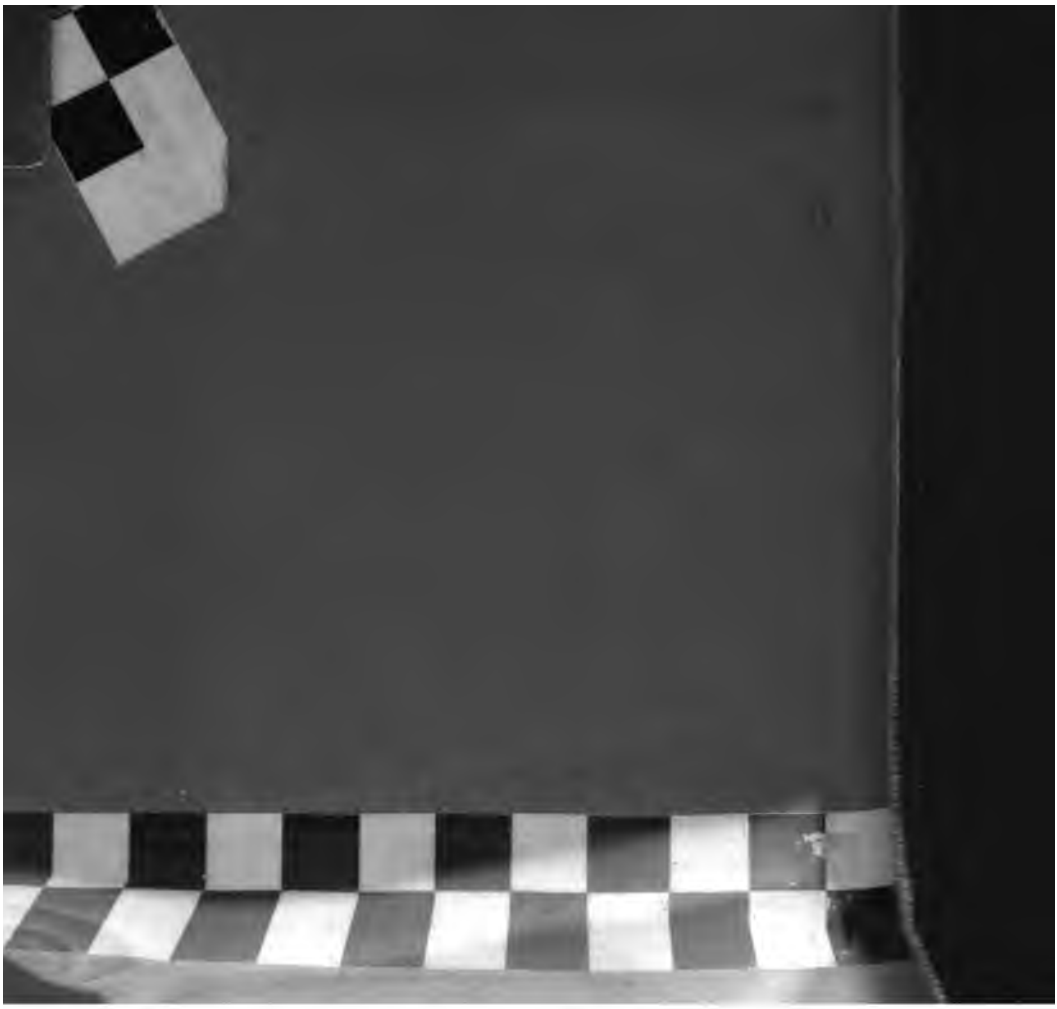

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THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996

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HEARING

BEFORE THE

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON BANKING AND FINANCIAL SERVICES

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

FEBRUARY 27, 1996

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THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996

TUESDAY, FEBRUARY 27, 1996

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING
AND COMMUNITY OPPORTUNITY,
COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:07 p.m., in room 311, Cannon House Office Building, Hon. Rick Lazio [chairman of the subcommittee] presiding.

Present: Chairman Lazio, Representatives Bereuter, Weller, Fox, and Vento.

Also present: Representative Watts.

Chairman LAZIO. The subcommittee will come to order. I want to welcome everybody to this hearing of the Subcommittee on Housing and Community Opportunity.

I want to explain that we have waited for a few minutes because we wanted to allow some of the members who were in some different locations to give them time to get here. At least two members are on their way and because many members have had to fly in from different parts of the country, some of them have not been able to get here.

I also want to begin by letting the audience, and in particular the panel, know that I am going to have to excuse myself because I am going to be called to the floor of the House to manage a bill that would extend various housing programs through the end of the fiscal year, which is very, very important in terms of public and assisted housing and home ownership programs. So, I say that so when I leave, I don't intend any disrespect to some people who are very important both in terms of the Indian Nation and also in terms of their difficulty in getting here, and I appreciate the effort that the panel and many members of the audience have undergone just to get here.

Let me also explain that this is the first hearing that we have had on Indian housing issues for this session of the 104th Congress and it has taken us some amount of time to consult with the various representatives of the Indian Nations—and we're joined now by my friend and colleague, Mr. Bereuter of Nebraska—and we have taken the position that we want to listen first to the concerns of many of the representatives of the housing authorities in the Indian Nations before we begin to propose solutions. So we are now

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to the point where we have a draft bill on which we are soliciting input.

Since the advent of Indian housing programs under the jurisdiction of the Department of Housing and Urban Development, Indian housing has been a subset of public housing. Programs designed predominantly to meet the needs of America's urban landscape have been ill-equipped to handle the unique nature of Indian housing programs. The trust nature of reservation land and the government-to-government relationship between HUD and the tribes are but two examples of legal structures that make Indian housing issues different than general public housing. Indian housing should be divorced from public housing programs because the needs and the problems are different.

We also have to begin to address the very serious capital needs of the Indian Country. While discussion and debate are under way on other legislative initiatives, such as NAFSO, the Native American Financial Services Organization, we can take steps now to ensure public dollars go to tribes for housing and can be used to leverage private dollars. Providing the maximum amount of flexibility and use of housing dollars within strict accountability standards is not only a further affirmation of the self-determination of tribes, it allows for innovation in local problem-solving capabilities that are critical to the success of any community-based strategy.

Further, the formula-driven block grant concept allows us to implement a new concept in Indian Country. Using a model similar to the section 108 loan guarantee, of the Community Development Block Grant Funds, tribes could use Federal support to borrow capital from existing financial organizations and markets to expand the number of new units that can be constructed. This helps alleviate the serious need for new housing units in Indian Country, and at the same time lets private capital and investors take up the slack where Federal funding cannot. And I want to particularly note that Jackie Johnson has been very helpful. She has helped to educate both me and the subcommittee come up with solutions to meet this critical capital need.

Involving private markets and private real estate entities must be part of a successful strategy to improve economic conditions in Indian Country. Simply put, we need more bang for our buck if we hope to address the needs of Indian communities in a meaningful way.

I look forward to a thoughtful discussion on these and other topics today. The panel before us is both knowledgeable and experienced in dealing with these problems, and I look forward to their testimony.

I would also like to add that, although I am very interested in this hearing, as I mentioned before, the subcommittee does have a bill on the floor of the House this afternoon, and I will be leaving, and I hope you will forgive me for that.

I wanted to make a special mention that one of our members who is particularly interested in this issue, Mr. Hayworth, has been unavoidably detained in Arizona. As a matter of fact, only about 2 weeks ago I was out in Arizona meeting with many of the representatives of Indian Country on the issue of Indian housing and had a very good discussion with them. So if Mr. Hayworth is

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able to join us today, depending on his plane schedule, I am sure he will.

I also wanted to note that we are joined by our colleague and friend from Illinois, Mr. Weller.

Now I will turn to Mr. Bereuter.

Mr. BEREUTER. Thank you very much, Chairman Lazio. I look forward to these hearings. They have been some time in the making, and I am particularly anxious to hear the comments of the witnesses.

This is not our hearing room, we're borrowing today. I don't like the physical distance from the witnesses and the audience that we happen to have here. But, believe me, it is not symbolic because, as the chairman said, it is our intent to listen to you and what you have to say.

As is the case with so many programs, the programs don't always—that are designed for the Country at large don't often work well for the Indian community, and we want to adapt or create new programs as necessary to meet the housing needs of Native Americans living on the reservation and to assure that those living off the reservation have an adequate opportunity to take advantage of the supplies of housing that might be available.

I am the author of the Loan Guarantee Program, which I hope will—I am the author of the Loan Guarantee Program—can you hear me now in the back?

I won't try to repeat everything, but I was simply saying, among other things, that we look forward to the testimony here because many of the programs that are designed for the Nation as a whole do not work well on Indian reservations. And so, we are either going to have to adapt them better or create whole programs.

I am the author of the Loan Guarantee Program which is designed specifically for Indian reservations which we are just starting. So any reactions you have to that program prospectively, or any problems that you see already where it's really in place and operating, I hope you'll bring them to our attention.

Chairman LAZIO. Mr. Weller, do you have an opening statement?

Mr. WELLER. Very brief one. Good to see you again, Mr. Bereuter.

Mr. BEREUTER. Good to see you.

Mr. WELLER. It's nice to be back and now we're back in session this week.

First, I just want to, of course, welcome those who are testifying today. I represent the State of Illinois, and my interest, of course, is I do not have quite the background of some of my colleagues on this subcommittee on this particular issue, but I do know that my seat mate here in the subcommittee, Mr. Hayworth of Arizona, has expressed to me time and time again his strong interest and concern for Native American and Indian housing programs. And because of that, I, of course, want to make a special effort to be here.

Like some of my colleagues, we do have a very important senior housing bill up this afternoon, and we have be on the floor in about 15 minutes, so I will be ducking out, but I do intend to return. So, I do want to thank everyone who has taken time to be here and who is participating in this hearing.

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Mr. BEREUTER [Presiding]. Thank you very much, Mr. Weller. We're hoping your mikes are going to work better than ours do.

Now we'd like to proceed with the testimony. We'll hear from all four witnesses before we begin to move to a question period. I would like to remind you that your entire statements will be made a part of the record, and we'd appreciate it if you would summarize in somewhere between 5 to 10 minutes each. It would be very helpful for us to have adequate time for questions and avoid the votes that we do expect to take place on the floor before too long. And unless there is some other particular arrangement that meets the needs of the witnesses, I will simply call upon you as you are listed.

The Honorable Albert Hale, president of the Navajo Nation. Mr. Hale, we look forward to your testimony. Please proceed as you wish.

STATEMENT OF ALBERT HALE, PRESIDENT, NAVAJO NATION; ACCOMPANIED BY LEON SUTHERLAND, CHAIRMAN, HOUSING AND TRIBAL COUNCIL MEMBER; KELLY EAGLEMAN, COUNCILMAN, HOUSING BOARD MEMBER; PAUL RUSSETTE, JR., CHIPPEWA CREE TRIBAL COUNCIL MEMBER AND CHIPPEWA CREE HOUSING AUTHORITY BOARD MEMBER; AND ALAN PARKER, TRIBAL ATTORNEY

Mr. HALE. Thank you very much to the presiding Chair and the Chair who has just left and the members of the subcommittee. It is indeed an honor and a pleasure to appear before you this afternoon to provide some comments on the proposed Native American Housing Assistance and Self-Determination Act of 1996.

I am the president of the Navajo Nation which is the largest Nation, Indian Nation, in the country. However, that Nation is also the poorest in terms of the poverty level of all the American rural poor. Unemployment of my Nation averages 38 percent to 50 percent and about 56 percent of my people live in poverty. And the per capita income is just above $4,000 per year.

We have a need of 13,539 newly constructed houses in order to address the housing crisis that we now face. Between 9,099 existing housing units on the Navajo Nation are in dire need of renovation and refurbishing in order to bring it up to standards. So we are facing the situation, and I am encouraged and very, very happy that the subcommittee is looking at this particular issue. Hopefully, we will come out with some resolution to address this persistent problem that exists out in Indian Country.

The Navajo Nation supports the concept of the proposed Native American Housing Assistance and Self-Determination Act of 1996. We agree that, given the government-to-government relationship with the Federal Government that each of the Indian Nations has, block grant funds for Indian housing should go directly to Indian Nations or their tribally designated housing entities. We further agree that Indian housing should be separated from other Federal housing public housing programs. The Navajo Nation offers the following comments on specific portions of the bill: Regarding the funding formula, the Navajo Nation proposed that additional factors be considered in the funding formula: population, land base, and lack of tribal infrastructure development particular to each In-

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dian Nation must be taken into consideration. However, the bottom line is that whatever formula is developed, it must be fair and equitable to accurately reflect and address the real needs of Indian Nations. The Navajo Nation is willing to assist this subcommittee to develop such a formula.

The draft bill identifies approximately $650 million over the next 5 years to implement the provisions of this act. Although we applaud the introduction of the act, this amount is grossly inadequate. Our preliminary assessment indicates that $1.44 billion is required to address the Navajo Nation housing deficiency. Mind you, that's only the Navajo Nation, so I would venture to guess that this is much more across Indian Country. According to a 1990 housing survey, the Navajo Nation has a waiting list of 13,539 families in dire need of homes. The housing crisis that plagued the Navajo Nation and the rest of Indian Country requires application of adequate resources for this issue.

Although Navajo Nation supports the bill, we recognize that the success of this bill is contingent upon other legislative efforts necessary to address the extreme lack of infrastructure that exists on Indian Nations. Comprehensive rule, fiscal—or physical infrastructure assessment or planning need to be conducted on Indian lands or with the Indian Nations. The Navajo people and other Indian people must be provided basic amenities available to other Americans such as running water, solid waste disposal systems, electricity, and telephone services. The Navajo Nation estimates that $533 million is needed to bring thousands of Navajo families to have the same access to safe drinking water, sanitary waste disposal systems, rural electrification, and telecommication now enjoyed and taken for granted by the rest of America.

The Navajo Nation recommends that regulations should be drafted with input from the Indian Nation. This bill should identify and resolve conflicting and inconsistent Federal housing program regulation and policy which now pose obstacles to the development of a streamlined, coordinated, and comprehensive Navajo Nation Federal housing partnership. Examples of such conflicting policy include: Federal agency and Navajo Nation policies on employment and contracting preferences, Federal agencies' insistence not to accept the role of Navajo courts in resolving housing loan defaults and related issues, and the Federal agencies' NIPA requirement in its documentation. The Navajo Nation is also experiencing increased need for HUD-related housing programs including independent elderly homes, nursing homes, and housing for people with HIV or AIDS. The Navajo Nation urges this subcommittee to continue to allow Indian Nations and/or tribally designated housing entities to request funding from HUD for these type of facilities.

In conclusion, the Navajo Nation appreciates this opportunity to comment on this draft bill. The Navajo Nation and Indian Nations are in the best position to determine the management and goals of their housing program. The Navajo Nation has increased its capacity to develop and properly manage these programs. However, we need to emphasize that time is running out for this Congress to move on this bill. So we urge this subcommittee to move this bill forward, so that this legislation can continue to provide incentive to the Indian Nations to advance their housing agenda.

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We look forward to working with this subcommittee on this important legislative effort.

Thank you again, Mr. Chairman and members of the subcommittee and staff and visitors.

[The prepared statement of Mr. Albert Hale can be found on page 43 in the appendix.]

Mr. BEREUTER. Thank you very much, Prosident Hale, for your testimony. We very much appreciate it.

I'd like now to call upon the Honorable John Sunchild, chairman of the Chippewa Cree Tribe, and chairman of the National Tribal Development Association.

Chairman Sunchild, I had an opportunity to look at your testimony, and I noticed that there were some comments there about infrastructure requirements, and perhaps, if you have in mind some coordination issues there, if you could enlarge perhaps on that point either now or during the question period, I'd like to know if we still have a problem coordinating the underground utilities and the arrival of the construction of the housing which had been a problem for some time that I was aware of.

You may proceed as you wish.

STATEMENT OF JOHN SUNCHILD, CHAIRMAN, CHIPPEWA CREE TRIBE AND CHAIRMAN, NATIONAL TRIBAL DEVELOPMENT ASSOCIATION

Mr. SUNCHILD. Thank you, Mr. Chairman and members of the subcommittee. I appreciate the opportunity to be here and to be able to speak on the real urgent need of my people. I support and urge this legislation.

Mr. BEREUTER. I think those are directional mikes and you're going to have to speak directly into it. If you could just pull it directly up in front of you—that's right.

Mr. SUNCHILD. I support and urge the passage of this legislation and that it be expedited during this session. This legislation will provide another option other than HUD and FmHA, an opportunity to afford another affordable house for our people across the Indian Nation. In that sense I would urge the expedited passage of this bill.

If I was going to do a little background into it, what it says in my written statement, I chair the Chippewa Cree Public Council, a membership of 4,000-some-odd people. And although it's not in my written testimony, we have a waiting list of over 400 people on a list waiting for a home of some type. Although we appreciate it, the involvement with the HUD people and the FmHA—and then you will create the opening of military housing for our people—we welcome another option, you know, for to afford houses for our people. Because if we were to multiply, if we were to add those 400 on the waiting list, if we were to consider all of the mature people 18 and beyond, I would venture to say that we would have 1,500 people waiting for a home. And we are in dire need of homes, and we are in dire need of transition homes. But in order to cover all of this in the background, I'll get into your infrastructure issues as I go along.

I also chair, like you say, the National Tribal Development Association. This has been a gathering of tribal leaders trying to

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address something that Congress could not do when they legislated the enterprise zones throughout the country. There was none there for Indian people other than accelerated tax and accelerated depreciation of equipment, but we will get into that later.

But, Mr. Chairman, this legislation that you have proposed holds great promise to benefit members of my tribe and other Indians. The proposed Native American Housing Assistance and Self-Determination Act of 1996 is based on recommendations of many tribal leaders and housing experts who have worked for 2 years with the congressionally sponsored Native American Commission on Indian, Alaskan, and Native Hawaiian Housing.

As you already noted, Mr. Chairman, the commission, in addition to identifying much-needed changes in the Federal Government's public programs, also documented the many obstacles through the development of private housing in Indian Country. If Indian people are to ever—are ever going to enjoy the benefit of private home ownership on the same basis as the rest of society, a special effort must be made to make—to bridge that gap between private financing on the reservation. The key to bridging this gap, according to the best thinking of many experts, is to make it possible for local banks, mortgage companies, to pack its bible, "Mortgage Loaners for Reservation Homeowners."

At the same time, it is necessary to provide loan funds of these local lenders by making it possible for them to consolidate and sell these loans in a secondary market. Thus, the congressional study of the Commission of Indian Leaders and Union Experts recommends that a new organization be established under the Federal charter that could serve as an Indian Fannie Mae. HUD may not support a separate organization; however, a separate financial organization would ensure the success of tribal member mortgage finance.

They also recommended that—and I'm very pleased to see that you have incorporated this in your bill—that Indian public housing funds should be available for leveraging private capital for the construction and renovation of reservation housing.

If I may take a little time here—the Chippewa Cree Tribal Housing Authority has firsthand experience in tackling the problems of private mortgage financing. On the Rocky Boys Reservation, we conducted our own, on our land, our own initiative, at our own expense, a special workshop in August of 1994 on the topic of reservation mortgage financing. This was inspired by the establishment of a new mortgage guarantee program by the Office of Native American Programs of HUD, the so-called section 184 program. Authorized by the 1993 Housing Act, we invited mortgage bankers, Fannie Mae representatives, HUD, BIA representatives, Indian Housing authorities from throughout Montana to that meeting in Rocky Boys, Montana. In the course of that day-and-a-half meeting, including tours of home sites on the reservation, we discussed all different steps that would be needed to make it possible for a bank to make mortgage loans to tribal trust fund lands. This includes enacting tribal laws to protect the lease whole mortgage rights of banks and the risk of exposure of HUD as guarantor of mortgage loans, and leaving the credit and underwriting standards of Fannie Mae.

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Mr. Chairman, I must report to you that almost 1 year later there has yet to be a single private mortgage loan to be made on our reservation, although we have a great need of low income housing, we have many tribal families who have steady jobs and good credit record, and who would very much like to purchase or have built their own private home. We have available home sites and have enacted special mortgage protection ordinance laws. To the best of my knowledge, the reason we still don't have private mortgage loans being made is that banks are not convinced that their loans would be sellable to Fannie Mae, if this whole mortgage must be approved by the BIA and HUD, and HUD must approve the guarantee of all these steps required to sustain a sustained effort by someone with the technical expertise and resource.

In addition, the water and sewer, electrical services, and other forms of housing infrastructure are not in place for private housing. And just—to me this is one of the major problems that the bankers have. Where does this money come from? Is it HUD? FmHA? Usually money is included by way of—by agency agreements with the Bureau of Indian Affairs for roads and streets, and the IHS, you know, for water and sewer. This would not be agreeable in a private home construction setting. This somehow has to be addressed. In other words, see, the private housing developer would have to find their own financing for such physical infrastructures, thereby adding additional costs to the loan and, subsequently, to the house.

Well, Mr. Chairman, these conditions exist nearly on every Indian reservation that I am aware of. And as a result, private home ownership continues to be simply a dream and an unmet need, despite the sincere efforts of HUD, private banks, and the willingness of secondary mortgage market buyers. Tribal leaders like myself are greatly frustrated in our efforts to help our tribal members. By making existing systems work on a reservation—again, referring to the tri-agency agreement, housing authorities, BIA for roads and streets, then IHS for the water and sewer, familiar with American housing assistance in our Nation—would enable our tribe to assist in exactly this environment. It would enable us to work in partnership with local lenders, private housing developers to put the pieces together for private housing.

Whenever necessary, a tribe could also assist in financing the physical infrastructure for housing development and make equity injections into a project. Local lenders would be in a better position to sell their reservation mortgage loans to a secondary mortgage market, so that their limited funds are replenished, and wherever necessary, purchase and hold these loans themselves, or establish secondary market purchases, providing that the loans do not meet underwriting standards.

Mr. Chairman, as a tribal leader, I look beyond the role of finding housing finance on reservations and look at the entire context of our reservation economy. From this perspective, I would like to recommend that your subcommittee consider ways in which you might assist tribes in financing real physical infrastructure and other forms of economic development on a reservation.

Our organization conducted a survey of all Indian tribes, and the highest existing need of all tribes is the need to finance infrastructure. In this respect, the most promising option to finance

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infrastructure is to make use of tribal authority to issue bonds. However, very few tribes have been able to exercise the ability to issue them for purposes, and private activity bonds do have the restrictions of the Tribal Government Tax Status Act which Congress imposed in the 1998 tax amendment.

I know that further amendments in the tax code are outside the jurisdiction of this subcommittee, but there may be other initiatives which would be helpful. For example, there are very important, practical constraints on tribes in making use of their existing borrowing and financing authority that could be addressed. Like most rural governments, tribal governments do not have in-house expertise to put bond issues together, and when they involve relatively small amounts of money, we find that the issuance fees can be prohibitively high.

Unlike most country economies and small municipalities, we do not have the access of State financing offices who traditionally assist in packaging and taking such bond issues through the marketplace. This is what seems to be the function that could be performed by a tribal organization if they could use the financial resources authorized under this bill for that purpose. I would like to respectfully ask that you consider clarifying, if necessary, whether this bill could be interpreted as authorizing such a role for tribes.

Mr. Chairman, at the outset, I said I support and appreciate this legislation. And I also urged a quick passage in this session. And I can only repeat that wish and that request.

With that, I hope I answered some of your infrastructure questions, but if not, I am ready to delve into some of your—enlighten you on some of the problems concerning Federal homes per se plus private homes.

[The prepared statement of Mr. John Sunchild can be found on page 48 in the appendix.]

Mr. BEREUTER. Chairman Sunchild, thank you very much for your testimony. And you have elaborated on the infrastructure coordination problem, which I appreciate. And also, I think it was important that you did bring up the question of the underwriting and issuance of tribal bonds as affected by the 1998 act and to raise the question as to whether or not the legislation before us would enable Indian tribes to put together a package to assist on the issuance of bonds, as principalities typically have such services from State agencies or from a municipal association.

I'd like to interrupt our testimony very briefly to mention the fact that Congressman Vento from Minnesota has joined us in the course of your testimony, as has Congressman Jon Fox of Pennsylvania. And I recognize Mr. Fox for a unanimous consent request.

Mr. FOX. Thank you, Mr. Chairman. I'd like to enter, for the record, an opening statement, and I appreciate the opportunity to hear the continued testimony of these outstanding witnesses and will ask questions at its conclusion. So, I request that my statement be included in the record.

Mr. BEREUTER. Thank you. Without objection.

[The prepared statement of Hon. Jon Fox can be found on page 40 in the appendix.]

Mr. SUNCHILD. Mr. Chairman, for the record, I'd like—we all work so hard to make a better living condition in terms of housing

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for some of my key people. I have members of the Chippewa Cree Housing Authority who are present, and they realize how serious this legislation is, and they are here to support it.

So, Mr. Leon Sutherland, please stand. He is the chairman of our housing authority; Kelly Eagleman, member of the housing authority; and Paul Russette, a member of that organization also, and Mr. Alan Parker, our staff attorney, plus our new board member.

Mr. BEREUTER. Thank you, Mr. Chairman, and thank you gentlemen for your contribution to your housing authority's activities.

I would warn the members, as well as the witnesses, that these mikes are very directional. We've requested engineering assistance for these, but I know that some people in the audience are having difficulty hearing, so talk as directly into the mike as you could, please.

Next, I call on Ms. Jackie Johnson, chairperson, National American Indian Housing Council, and executive director, Tlingit-Haida—please correct me on that if necessary—Indian Housing Authority. You may proceed as you wish. Your entire statement, as I mentioned will be made a part of the record.

Ms. Johnson.

STATEMENT OF JACKIE JOHNSON, CHAIRPERSON, NATIONAL AMERICAN INDIAN HOUSING COUNCIL AND EXECUTIVE DIRECTOR, TLINGIT-HAIDA INDIAN HOUSING AUTHORITY

Ms. JOHNSON. Thank you very much. My name is Jacqueline Johnson, and as you stated, I am the chairperson of the National American Indian Housing Council. My Tlingit name is "Whoseen," and is Tlingit-Haida, as they would Anglicize it, and I am the executive director of the Tlingit-Haida Regional Housing Authority. I also sit as vice chair for the Alaska Housing Finance Corporation.

I'm proud to be here today, and I am proud to represent the National American Indian Housing Council, particularly because I am very supportive of this piece of legislation. I think that this is an historic piece of legislation, and at this time I would like to thank Chairman Lazio, and particularly his staff member Chris Bozen, for all the effort and coordination that he has made with the Indian Housing Authorities and the Indian tribes to make sure that we have had our input into this bill. And truly this bill represents the voice of Indian people.

I also at this time would like to thank you, Congressman Bereuter, for the bill that you had done before for us. That is the Loan Guarantee Program. That program was the first step for making us realize there was a greater dream out there and an opportunity for us to be able to reach and that it was obtainable. And I believe that the Loan Guarantee Program has changed the way that we look at the housing authority's function, the way that the tribes function, and our opportunity for the future. If there is one thing that I could ask that could be changed of the Loan Guarantee Program—and certainly that there would be more loan guarantee available—I am afraid that the loan guarantee amounts available to us, as soon as we are able to start being able to coordinate the efforts with the secondary market and to figure out how to make it work within our own tribal structure and have the tribal

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ordinances, isn't going to be enough. And I would make that one recommendation.

Mr. BEREUTER. You are absolutely right, and when we started the Loan Guarantee Program for rural communities, the so-called 502 program, it started out relatively small in its authorization. But we couldn't prove that it would work until we could prove to the Congress that the default rate would be very low. And now, of course, we are putting in substantially more resources—and I would hope that we might be able to have the same experience with the Loan Guarantee Program for Indian reservations.

Ms. JOHNSON. I expect that you will.

Mr. BEREUTER. Please continue.

Ms. JOHNSON. Yes. I'd like to say that the National American Indian Housing Council represents 187 housing authorities in the United States. The housing authorities manage over 80,000 units for more than 250,000 Native Americans. Indian housing authorities are the major providers of housing in Indian Country. Indian housing authority managers, executive directors, are having to become more proactive, learning about creative housing finance, and how to squeeze even more from the unfunded housing programs that do not meet the acute needs of housing today. In the States like Nevada, North Dakota, South Dakota, Montana, Arizona, Alaska, and Maine, Native Americans are the most impoverished rural people. In Chairman Lazio's own State of New York, there are approximately 13,400 Native Americans living in rural communities or reservations. Almost 20 percent have incomes below poverty level. In the State of Nebraska, the vice chairman's State, there are more than 5,500 Native Americans living on reservations and in rural communities, and more than 47 percent of whom are living below the poverty level. And of that number, 56 percent are children below the age of 18.

Compared to the statistics nationwide, the percentage of rural people below poverty level in the United States is 12.96 percent, of which 16.6 percent are children under the age of 18. The reality of these children and what these families suffer daily in overcrowded, substandard housing, should speak to the heart of every American. We cannot live with it any longer, and need to begin to act responsibly to change these conditions. It is our national disgrace, our national shame that in the United States of America, on the brink of the 21st century, such conditions still exist. We must reverse this situation. A great partnership must form, and that is the partnership between the public and the private sector.

The act under consideration today will help us to change that situation. It includes many reforms that spring from the National American Indian Housing Council's position paper developed last July. Three major reforms are particularly important.

The first is that at last there is a proposed Indian housing bill that is for Indian housing. We have long sought a bill that separates Indian housing programs from public housing and recognizes the uniqueness in Indian Country. In addition, the block grant will give Indian housing authorities opportunity to identify their local needs and set their priorities, design and develop programs that they think meet their local, unique condition. Indian housing authority management plans will help communities approach housing

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comprehensively and holistically for all the people on our reservations and in our villages. For so long Native Americans look at public housing as meeting the need of just the low income people in our communities. Indian housing authorities and Indian tribal leaders have the responsibility for the total community, for the economic development, for the jobs. Housing authorities are the primary source of economic development. We need to be able to coordinate infrastructure efforts with our housing development to create jobs.

These are enormous, positive steps for Indian Country. There are, however, seven areas in this bill of real concern. We respectfully make the following recommendations: The first one, the definition of the tribally designated housing entity needs clarification. It was clear that when we determined that we needed a statement calling for the tribally designated housing entity that it is current and existing in tribal statute. Many tribal governments have already identified the designated tribal entity to be the Indian Housing Authority. We are not expecting to make changes. What we are expecting is to clarify that there is a system and in place and that we are not trying to change the system, but if a housing authority or tribal government chooses to call themselves something different so that they can leverage other funds, if they want to become a certified housing development corporation or a CDFI, those opportunities will be there and not limiting to them. And, therefore, we came up with a definition called the tribally designated housing entity.

Another item is to allow for a 1- or 2-year period of transition. As you know, with the Loan Guarantee Program, it was like a first step for Indian Country, and with this bill, this bill allows us to become what we want it to be, to develop programs that we want to develop, but the majority of Indian housing authorities are very small, and the majority of tribes in this country are very small, and they are going to need training and technical assistance. They are going to need time to make that transition, and we are hoping that this bill will be able to aid in a transition period.

We are also asking for removal of the cap of administrative fees. Administrative fees, we believe, should be subjective to the oversight agencies, in this case HUD. We know that there is a great uniqueness in Indian Country. We know that the geographic concerns are very diverse. For someone that might be in Sault Ste. Marie, Jolene Nertoli here, her administrative fees might be totally different than an area that I serve in Alaska where my region is only—I can only travel to the communities that I serve by air which expands over 900 miles. So the administrative fee, we believe, needs to be relevant to what the administrative costs really are and the cost of providing service. And we believe that that can be done through a coordinated effort with HUD.

We'd like to also insert language that would assure that subsidy support would not be reduced as IHAs develop additional income. And what we're trying to say here is very important and a very important piece that we worked with Chris on, and that is to ensure that we can leverage our funds, ensure that what we get from the Federal Government, from HUD programs, or where we get from other places isn't going to penalize us for leveraging, for capitalization, for using a HUD program with a tax credit program, which

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right now tax credits is very, very difficult if not existent in being used in Indian Country. So, those are some of the things that we want to ensure.

Insert language that would provide technical assistance. And I mentioned before that National American Indian Housing Council provides technical assistance to Indian housing authorities and Indian tribes. This, in moving forward to the future, and us grasping the dream and being able to have true home ownership opportunities in Indian Country, we need to be able to provide even greater technical assistance. We need to be able to understand the basic components of putting and packaging deals. But not only just on the administrative part, the other impediment that we found significant as we moved forward with the loan guarantee was the basic understanding of the people that we serve, the basic understanding of our tribal members, the amount of tribal members who don't even have a check book, the amount of tribal members who don't have a savings account, the amount of tribal members who live on a total cash basis. And if we are going to truly change the vision for Indian Country, it's going to take a lot of counseling, a lot of hard work, and a lot of technical assistance and transition.

The other thing that we are asking is to insert language that will set up a small loan fund program. And with that we are looking toward the model similar to the NAFSO legislation, something that will allow us to put together, create a revolving loan fund, or a loan fund to help put together pre-development and development, to be able to help truly start getting private enterprises interested in Indian Country.

And then, the last comment I have is to remove or define all references to the 1937 Housing Act. If we're going to separate ourselves from the 1937 Housing Act, it's very difficult for us to have to refer back continually to see whether or not that Housing Act has been amended, changed, and what the impact would be to Indian housing. It would be a lot cleaner for us to have it all in one act.

Members of the subcommittee, National American Indian Housing Council enthusiastically supports this legislation and greatly appreciates your efforts to reform Indian housing programs. This subcommittee has worked very hard to reform a program to meet our needs. The reform is based on the National American Indian Housing Council's position paper approved by Indian housing authorities and tribal leaders. It will improve Indian housing and help to lead our people to stronger paths of self-determination in the next century. Indian housing authorities are proactively exploring new innovative ways to house their people. Proactiveness is a new-found power and is one growing in strength daily. This power will help carry us proudly forward into the future that we can secure for our children. Nothing matters as much as securing for our children's heritage our culture and providing safe, decent, and sanitary affordable homes in which our children can grow, and learn and mature until they too complete the full cycle of life.

On behalf of the people whom we serve, and as a representative of the Indian housing community, National American Indian Housing Council strongly urges you to pass this legislation and to encourage all of your colleagues to do so. In this time of change, we

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must move forward, and for Indian Country, it is the first historic step.

Thank you very much.

[The prepared statement of Ms. Jackie Johnson can be found on page 54 in the appendix.]

Mr. BEREUTER. Ms. Johnson, thank you very much for your testimony with very specific recommendations and for your kind words for the subcommittee and this member. We appreciate it.

I now would like to call the final witness for her testimony, Jolene Nertoli, executive director, Sault Ste. Marie Housing Authority, Sault Ste. Marie, Michigan. Your entire statement will be made a part of the record. You may summarize as you see fit.

STATEMENT OF JOLENE NERTOLI, EXECUTIVE DIRECTOR, SAULT STE. MARIE HOUSING AUTHORITY

Ms. NERTOLI. Thank you, Mr. Bereuter. I really appreciate the opportunity to come here and speak today. I'm kind of a new kid on the block. I've not done this before, so some of—I may seem a little bit nervous, because that's what I am, but I truly appreciate the opportunity.

Everybody here has so eloquently speken of Indian housing. I've been involved in Indian housing for 16 years now and am kind of considered an old kid on the block, I guess. Everybody here has spoken of the uniqueness in their area that they come from.

We are direct descendants of the Ojibwe people, and we live in Sault Ste. Marie, Michigan, in the upper peninsula along the Canadian border, and that in itself creates some uniqueness in the sense that our tribes service a seven-county area. We are spread from Sault Ste. Marie all the way west to Marquette county, and we travel in an average day for business maybe 160 miles one way by car to conduct our business.

So, when I speak, I speak of some of the things that I feel that in this bill are good in the sense that it gives us self-determination, and that is one of the things that our tribe is strongly heading for. Our tribe has been federally recognized only for 20 years, and in that 20 years we've not looked back. We have overcome some major obstacles in our endeavors toward self-determination, and I'm very proud of the efforts that we have made in our communities for self-determination and self-sufficiency and economic enterprise that we have been able to develop in these past 20 years.

Being in housing for the past 16 years, I have seen very many changes, some very good, some not so good. I'm going to attempt to address the bill as it is and some of the things that I feel that need to be really looked at, and some of the things that I feel need to be addressed yet.

Chairman and members of the subcommittee, as representative of the Sault Ste. Marie tribe, I want to say that we support the Native American Housing Assistance Act and Self-Determination of 1996. There are many items in this act that we believe will benefit the tribes, and we appreciate the efforts you have made to assure that this legislation will have a positive impact on our communities. There are, however, areas of the bill that we believe deserve further consideration, and we strongly encourage you to consider our comments.

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The Sault Ste. Marie tribe is pleased and supports the congressional findings section that recognizes the Federal Government's unique responsibility to Native American people. This responsibility includes assistance to tribes and tribal members to help them improve their socio-economic conditions, which includes the recognition to provide means for affordable and healthy homes for Native Americans. This section includes direct housing assistance as well as assistance to development of private housing finance, a mechanism that will promote self-sufficiency and self-determination for tribes. The act designates the housing assistance to be given directly to the tribes or tribally designated entity, thereby giving tribes more responsibility and control.

We support this provision because in the past tribes were required to develop tribal ordinances that separate Indian housing from the tribes. This was done more for litigation and funding purposes. It encouraged, however, distinct dividedness between tribes and housing authorities and the governing bodies. As a result, in some instances the separation has caused a loss of direction in providing housing for tribal members and meeting the needs of all their tribal needs.

It should be noted that though most tribes have already created Indian housing authorities through tribal ordinances, the tribal ordinances have designated the housing responsibility to the housing authority, which should be sufficient for the tribally designated housing entities, as stated in the act. The Sault tribe supports this provision, as it is one way in which this act gives tribes more control over funding and direct responsibility over future housing. It also eliminates separating the housing authorities from the tribes and in most instances will create a better working relationship.

Those of us in Indian housing have been working very hard and very long for the separation of Indian housing from public housing. I am very supportive of this provision, and thank you for making this a part of the act. This separation will enable us to address the uniqueness of our people in our cultures. Many regulations imposed upon public housing have adversely affected Indian housing programs.

I am also pleased that the Department of Housing and Urban Development Office of Native American Programs will continue to have the responsibility the Indian housing programs and the separation of public housing. The office has worked hard to meet our need, understands our cultures and our people. I believe that the future holds greater opportunities for us in the separation and that the Office of Native American Program is one of the government offices that is most appreciative and will help us move forward.

I recognize advantages of the block grant system which will be used for housing operations, development rehabilitation, acquisition, and support activities. I am concerned that this change from present funding method will be difficult for some in the designated housing entities. Many existing Indian housing authorities have not managed block grants before and will require extensive assistance to gather information and adapt the block grant method. They will also require transition time, much more than is allowed in the act. In addition, a great deal of training and technical assistance will be needed to adapt the policies and to learn new procedures.

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I strongly encourage you to allow this to us to make the transition from current operations to the block grant method. Also, I strongly recommend that Congress help us build the capacity to implement this new form of operation with funds for training and technical assistance.

In addition, it has been a long concern among Indian housing authorities, especially small ones, that they have enough funds to operate. This section only allows 7.5 percent for the administration grant. This will adversely affect many tribal housing programs. A minimum base for operations should be established with an operational formula. It can be adjusted accordingly to meet the needs of program size. It is not possible to operate a successful program if there are not enough funds to pay staff. Regardless of the size of the authority, there are certain basic needs that must be met for operations. Please remove the cap of administration fees and allow the administrative fee to be set through an operation formula based on local needs.

In addition, section 101 requires coordination of grants and provides with the grants loan guarantees we need to make the process—we need to process grants without hampering for the sake of section 184 or any other Indian housing loan guarantee program. It is burdensome to require a housing authority to get a grant based on some other things that may be imposed, such as the loan guarantees. It is important that the act be kept as simple and straightforward as possible. In keeping simplicity, tribes should be encouraged, not required, as stated in the act, to work with public and private organizations or to coordinate activities with guaranteed loan programs, as I stated above. These requirements may hinder some tribes instead of help them implement housing programs that are suited to their needs. I recommend that you remove these provisions and make them optional.

I support the local housing management plan concept and believe this will definitely benefit the tribe. It will provide direction and consistency in meeting housing needs as well as create a working relationship between tribes and tribally designated housing entities where there may not have been any in the past. I strongly recommend, however, regulations governing these provisions be flexible. The Davis-Bacon has been a major concern for Indian housing authorities because it drives the cost of construction up and often times creates disparity within tribal wages. Tribes must be allowed to conduct their own wage survey and pay prevailing wages based on local economy. This will enable more consistency within tribal operations and not create a false economy. Please remove all references to Davis-Bacon.

Mr. Chairman, I am concerned about the formula allocation process that is needed to distribute the block grant. According to the act, the existing Indian housing program will be terminated as of October 1, 1996. No method of allocation has been developed at this time. This formula allocation is one of the most critical elements of the act, and I feel formula allocation methodology will be the determining factor of the support of the act by tribal governments. I strongly support the statement that there be tribal representation on the development of this formula, but also strongly recommend that the formula allocation be in place prior to any enactment.

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Oftentimes they talk about tribes or housing authorities that are in non-compliance. I recognize that any tribe or tribal housing entity needs to be accountable for their actions or their non-actions, but I feel that the due process would be that, if a tribe or a tribal entity was found not in compliance, that they should be able to go directly to the department of HUD and be able to determine their compliance or non-compliance, or an administrative judge. I don't feel that it should be initiated in the U.S. Courts of Appeals. I feel that this provision needs to be taken out of the act.

Lastly, Mr. Chairman and members of the subcommittee, I have concern of a provision that is not in the act, the provision for the funding of the drug elimination program. When this program was initiated in the housing program, the communities' enthusiasm was tremendous. This was an opportunity for tribal families to deal with their growing concerns of drug use and gangs on reservations. We have been able to address these issues through drug education. Teaching of the Anishnabe cultures, traditions, values, and language incorporates good living—excuse me, this is very important to me, so I'm going to go back and say this.

The act does not address the drug elimination program. This has been a life link to our families within our reservations. We have been able to address the growing concerns of drug use amongst our young people on our reservations. We do so through our drug education, of course, but more so through our cultural teachings and traditions and values which teach us to value and respect ourselves as human beings. In our traditions there are many teachings that show us in our ways that we are responsible to live a good, healthy, balanced lifestyle which does not include drugs. This funding has been able to bring many communities together and been able to give us an opportunity to teach our children the value of living a good, healthy, balanced lifestyle, and I would ask that this provision for the drug elimination program be an additional funding or clearly state in the act that such a program, including security, can be supported in the block grant funds.

Mr. Chairman and members of the subcommittee, I thank you for this opportunity to testify before you. I appreciate the opportunity to come here and speak to you. There are so many things that being in Indian Country that we are so—we have a uniqueness and sometimes it is so hard to put these kinds of things on a piece of paper or even get up before you and speak because we are a unique people, we have unique situations, and the legislation that we are looking at being able to provide housing for our families is more than just a house. It is a community that we are trying to develop, and we ask your assistance. We ask that you come and visit us and see the uniqueness and see the things that we are very proud of in our communities. And I thank you very much again.

[The prepared statement of Ms. Jolene Nertoli can be found on page 72 in the appendix.]

Mr. BEREUTER. Ms. Nertoli, thank you very much for your fine testimony and for the specific recommendations you made. If you were nervous because of your first-time witness, it wasn't apparent. In any case, we appreciate the testimony of the panel, and now it is an opportunity for us to ask some questions of you and to give us some further guidance.

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I'm going to suggest and set the procedure whereby we will recognize members alternatively on both sides of the aisle and ask them to limit their remarks to no more than 10 minutes, and, if necessary, for remaining members, we could have a second round.

I will recognize myself first and explain that I may have to go soon to testify, to speak on the bill on the floor. If so, Chairman Lazio will return to the chair. But I will yield my time to Mr. Fox from Pennsylvania who has a conflict.

Mr. FOX. Thank you, Mr. Chairman. I will try to be pointed in my questions because of the time constraints.

First, I wanted to thank all of the witnesses for outstanding testimony, and I would like to take you up on your offer, Ms. Nertoli, on having our next hearing be out in Indian Country.

Ms. NERTOLI. That would be great.

Mr. FOX. That would be excellent. I'm sure the chairman and vice chairman would be able to effectuate that, and it would be wonderful for the members as well.

One of the provisions of the legislation as it will be introduced is to include assistance to tribes that are not necessarily technically able to carry out all of the provisions of this act. What form do you think that assistance should take? Should HUD or a third party be responsible for this, and how many tribes do you think will need this assistance? Ms. Nertoli, I guess I would ask you that.

Ms. NERTOLI. Pardon?

Mr. FOX. Do you have an opinion about that? Whether technical assistance——

Ms. NERTOLI. Do you mean technical assistance——

Mr. FOX. Should it come through HUD or third parties as far as how to provide the assistance regarding housing?

Ms. NERTOLI. I would like to see the technical assistance come through the National American Indian Housing Council, as it does now. We have had great success with the national, and we feel that the national represents us as an Indian tribe and housing authorities. And they have the expertise.

Mr. FOX. Very good.

I would have a question for Chairman Sunchild, if I could. One of the main thrusts of the subcommittee's work in this Congress has been to view the problems of the community not as separate individual problems, but as symptoms and interrelated needs. For instance, fixing up a public housing project without dealing with education or job creation and capital needs of a community doom that community and its residents to be trapped in poverty and doom the Federal Government to keep spending money fixing up the same housing without making a positive difference. This is a pattern the Federal Government has repeated over and over again in both rural and urban communities. How can a local community, in your case the tribe and its members, take a greater role in solving problems and bringing together solutions?

Mr. SUNCHILD. Sir, what you say is absolutely true. I mentioned in my testimony——

Mr. FOX. Could you get the mike closer to you so that everybody could get the benefit of hearing you?

Mr. SUNCHILD. Does this work?

Mr. FOX. That's good.

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Mr. SUNCHILD. OK, that's better. At the outset of my testimony I mentioned the fact that we have a waiting list of over 400 people, and although we have something like 400–500 homes now, and through HUD we have some renovation programs, and the thing that when you try to renovate 400–500 homes——

Mr. FOX. Right.

Mr. SUNCHILD. And although there are mechanisms there to identify which sections will be renovated on a certain funding year, it is hard to keep up. The deterioration of homes, not lack of maintenance, but many times the number of people living in these homes—many, many times, I mentioned if we counted young people age of 18, those people at the age of 14 become married, and then they start having families with nowhere to go. They continue to live with their parents. In a number of years, instead of 5 people in that house, in a number of years there's 12 people in that house. So regardless of how much money goes into renovating these houses——

Mr. FOX. Right.

Mr. SUNCHILD. That cannot be kept up; it is just impossible. It is—the ideal is, as soon as our 18-year-old gets married, provide a house for him; he moves out. That's the ideal situation. For example, never enough, we never have enough money to completely renovate a house up to standards in any given year, so we piecemeal it. And you start to multiply that situation into 500 times, 500 requests from community members; it's pretty hard to do.

Give us the opportunity. The legislation will provide homes. For example, to use myself, John Sunchild, as an example, I have the same situation. I have family members living in my house. But John Sunchild is about the retirement age. Give me the opportunity to buy even a modest trailer home, so I can move out and give my equity in the house to my children. This is the only way that tribal leaders see as living up to standard and affordable homes for a majority of their constituency.

Mr. FOX. I appreciate your candid testimony. I think the witnesses have done an excellent job making their case for the fact that this legislation needs to be adopted. We thank you for taking the time to answer the question.

And I will defer back to the chairman unused time. Thank you.

Mr. WELLER [Presiding]. I thank the gentleman from Pennsylvania. It is Representative Weller in the chair.

I do want to note, as we pointed out earlier in this hearing, that many members of the subcommittee, including both the ranking Member as well as the chairman, are occupied on floor debate on a major housing piece of legislation. That's important to many issues affecting housing, so we are going back and forth, and I'm sure those in the audience recognize that.

At this time, I'd like to recognize the gentleman from Minnesota, Mr. Vento.

Mr. VENTO. Thank you, Mr. Chairman, and I wasn't here for opening remarks, but I think that it's an encouraging sign that in a subcommittee we are addressing the issue of Native American housing and the critical questions and problems that persist in providing decent and sanitary housing for Native Americans.

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Obviously, I'm from Minnesota; we have a considerable public housing with the various bands and tribes in the State I represent, and some success and some problems. So with regards to providing sound housing, this isn't a new problem; it's only begun to put together the issue of sovereignty and trust lands and the lack of infrastructure and the depressing type of poverty that continues to be a problem on most reservations. It is a formula that adds up to the type of situation that we have today.

I visited yesterday with the Red Lake group that was in town to visit, and they pointed out that for a community of about 8,000 that are at that site at Red Lake, they have about 400 public housing units. So when you begin to look at the number of families, for instance, in your communities, how much public housing do you have for the band that you are representing, Ms. Nertoli? How much public housing is there?

Ms. NERTOLI. We started out, that's all we had for many years until just this past year, and the tribe was able to purchase remaining homes at the former Air Force base, Kitchnell Air Force Base, Michigan. And they acquired approximately 500 units, but those units had been abandoned for 20 years and——

Mr. VENTO. How large—what is the size of the tribe, the band that you represent that is involved in this?

Ms. NERTOLI. Our tribe is about 19,000, but that is spread throughout the United States, and the majority of—the concentration is in the upper peninsula and is about 10,000 people throughout the upper peninsula.

Mr. VENTO. How much public housing did you have before you acquired this 20-year-old housing from the Air Force base?

Ms. NERTOLI. Well, probably about 350 units. We're just starting.

Mr. VENTO. What about Ms. Johnson, do you have any examples you can give us? I recognize you represent a larger consortium of tribal groups.

Ms. JOHNSON. Yes, I represent southeast Alaska and in southeast Alaska I serve 14 villages, and a good example, in the villages I serve, Angoon has about 700 members in there. We have probably 80 percent of the housing stock is the housing authority's housing stock and the other percentage I would say, probably 8–10 percent, is dilapidated, old tribal housing stock or what we call war housing. And then there are a few people who have been able to develop their own houses. And we also offer a loan program in our housing authority.

Mr. VENTO. So what you're saying at Angoon is representative of the other bands in southeast Alaska, the other Tlingit.

Ms. JOHNSON. Yes.

Mr. VENTO. Chairman Sunchild, did you understand my question?

Mr. SUNCHILD. Yes. We have living on our reservation now—we serve one reservation, but this reservation comprises a membership of 4,500 families. Of these, 3,000 reside on the reservation comprising of—this is on a land of 130,000 acres.

Mr. VENTO. Yes, I saw that; 132,000 acres, I thought I saw in your testimony. But in any case, how many public housing units do you have there?

Mr. SUNCHILD. We have now about 500–600 houses.

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Mr. VENTO. Five or six hundred to serve a population of——

Mr. SUNCHILD. A population of about 3,000——

Mr. VENTO. Three thousand, that's what I thought. But it's 3,000 of the total membership, so it is a big percentage.

And, finally, President Hale, you've had the most time. Can you answer my question? Use the microphone, please.

Mr. HALE. Which question am I addressing?

Mr. VENTO. Well, I was talking about the same question the others addressed. I mean, I don't know how large the group is that you represent of population that is onsite and how many public housing units you have there.

Mr. HALE. We have a population of over 250,000 members and we are located within three States: Arizona, Utah, and New Mexico. And with regard to the number of housing units, we have approximately 6,600 public housing units, and about half of that is in home ownership. We are stressing home ownership and trying to get out of—get those units out of public housing. About 800 of those units are paid off.

Mr. VENTO. Well, I understand, I think it's always desirable to have ownership, but you obviously have to have an income to sustain that. We have been trying to cut that closer and closer in terms of trying to provide the type of assistance to qualify individuals for home ownership and to make certain that they can maintain home ownership.

In any case, I was pleased with the testimony, Ms. Nertoli, on the drug elimination grants in the other measure that was provided. We only authorized that for 1 year. The expectation was that it would come out of the consolidated grant program, and of course the problem there is that you are likely to lose the emphasis, I believe, the necessary emphasis for a program. I would hope that we could revisit that issue, because I believe that there is a lot of support from your community and from your bands for a program like the drug elimination grants or COMPAC, as the Administration has put it forth under Secretary Cisneros' lead.

We are very concerned, too, about the administrative costs that are eliminated in this bill. Most of us haven't had a chance to study the specifics of the bill as it has been undergoing development, but would like to look at it more closely to address some of the concerns that you have made.

One of the issues is with regards to—some testimony here with regards to developing another secondary market type of facility, not using Fannie Mae or Freddie Mac but developing another. There is nothing that inhibits the development of a secondary market investment banking type of opportunities to secure and to warrant paper. I think the major inhibitions with regards to this is that the paper has to be sold. And as such, I would think that, although nothing prevents that, the likelihood of that happening with the clouds over the paper with regard to trust and infrastructure and salebility and remoteness make it very difficult. The reason, of course, for dealing with the Native American housing in the context of other types of public and assisted housing is because the need for subsidy is so great. I can't contemplate marketplace housing in southeast Alaska, in these remote areas. I know the tremendous expense and I'm familiar with the type of physical and

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geographical problems there. In fact, I think that some of the Senators would prefer that I was less familiar with the Tongas type of issues. But, in any case, I am quite familiar with the necessity of the Federal Government working in a partnership, and trying to find the right amount of flexibility, of course, is a challenge.

But to make this a marketable commodity, we have had some, I thought, good suggestions that came out of the State housing finance administration, and my State housing finance administrator who now has gone over to do a different task in Minnesota, Jim Solem, had recommended some changes. In fact, you referred to the interest in Congress in the Native American financing authority as recommending the National Commission and Supplemental Report of 1993. What are your thoughts about it today? Is that going to do it? Isn't that, in essence, what we have recommended to us, a pilot project going out of the 1993 law right now? But it sounds as though there is no definitive answer yet as to its workability. I mean, I'm optimistic; you're optimistic. But we don't know whether it's going to be in—we set you up, we take this airplane off the Grand Canyon and see if it flies. This bill of course suggests that that is going to work.

Yes, Ms. Johnson?

Ms. JOHNSON. I'd like to answer that. I was a member of the Native American, Alaskan Native, Native Hawaiian Commission, and at the onset when the commission looked at what was really lacking in Indian Country, it was basically the financial concepts, the ability to provide a regular mortgage home for those who could afford it. And with the Loan Guarantee Program, it has assisted us somewhat. I believe that there is an ability for us to have conventional financing without loan guarantees in Indian Country, as people start and financial institutions start to trust and understand the tribal government systems, try to understand the trust status of the land. Those are unknowns; those are something that cause uncomfortableness in the financial institutions, but yet those are things that are real, and it's not any different than in any other kind of situation where you have to learn something new.

I know our housing authority offers a loan program, a rural loan program that we do jointly with our State finance authority and our loss ratio is less than 1 percent. It is significantly less than 1 percent. We know that the people living in our communities will live in our communities probably forever. They have made a commitment, a long-term commitment. And so the transition of people isn't as likely.

You mentioned the thing about subsidy, and that there is a great need for subsidy, and I agree. I know that we have a great deal of subsidy coming into Indian Country. The unfortunate part about the great deal of subsidy coming into Indian Country is that it continues to make us feel dependent. And it also, with the programs that are, the mutual help program, and the rental program, since they are government-sponsored programs, also perpetuate a greater dependency.

Now I believe that if the housing authority has flexibility based upon the capacity of the housing authority and as they want the trend to move forward, you can take what you get from your HUD subsidy and you can create a home ownership program that is

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more like a mortgage financing program that—for example, I have been working on a model myself in my housing authority where I have an interest subsidy, a second down payment, a second deed of trust, down payment assistance, every kind of assistance that finally gets the loan at an affordable rate, but it is truly home ownership, and I am using all of my HUD subsidies to make that happen. And so it is definitely subsidized to a great extent, but we are treating them not so much as dependent people going down for the dole system from the government, but someone who is truly looking for financing.

Mr. VENTO. Well, I don't want to take all the time. I said it was a 1993 law; it's only a report, I guess that we are talking about, but I think that, trying to put these in place, I understand that Fannie Mae, as an example, has only bought about 70 mortgages so far in spite of the fact that they have made a concerted effort to do so, and others may not have done much. I don't know what the private market has bought. I mean nobody is in their way, and they've bought nothing. You talk about banks, and we're talking about the Community Reinvestment Act in this Congress, and they've fundamentally eliminated that requirement from banks where they would have to invest in the community.

Housing has been one of the objectives that many banks have chosen to fulfill in meeting the community, but if you look at the banks in your communities, I am certain that is principally where the problem is because they buy the paper. They have to hold it for a long period of time. They can't sell it in secondary markets. There are all sorts of—one problem starts another. But you know, it's a complicated issue whether or not flexibility and what types of accountability ought to be present. These are going to be ongoing questions because, as you know, there is quite a mosaic of different abilities. And I would think that one of the things that we need to look at is a consortia working out in Indian Country, as you refer to it, to actually accomplish this goal.

I have a lot of confidence when I hear of the size of the unit and the flexibility of the market that might be present for the Navajo Pueblo groups. I don't have that same feeling when I look at the remoteness of some of my Native American communities in Minnesota where there is a very small market, very select, and it makes it much more difficult. Or when I look at Southeast Alaska, and I look at the small concentrations there, it just isn't as flexible. There isn't as much flexibility.

I commend the chairman and others for making and taking this effort in bringing this up. And in the end, I think if people look at the problems, I think that perhaps they've begun to understand the differences, the nuances that deal with it. Certainly we all want you to have a feeling of self-sufficiency and as much autonomy as is possible, but also understand that the costs here are going to necessitate, just as they have necessitated for the majority community in this Nation, assistance programs, like interest deductibility and State taxes and other factors. So we want to provide home ownership opportunities that are reasonable, that are manageable, and I think that we ought to be doing it. So far, nobody has had the right formula to deal with that for the Native American communities dealing with the various autonomy, the sovereignty, the

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trust relationships. So we look forward to continuing this effort. I think we've got some new ideas. Hopefully, some of them will work.

Thank you, Mr. Chairman.

Chairman LAZIO [Presiding]. Thank you very much, Mr. Vento. Mr. Watts.

Mr. WATTS. Thank you, Mr. Chairman. I first want to submit my opening statement for the record.

[The prepared statement of Hon. J.C. Watts can be found on page 42 in the appendix.]

I have a question for Ms. Nertoli and Ms. Johnson. It might have already been answered. I arrived here late, so if it has, please bear with me for asking it again. One of the concerns in establishing a formula-driven block grant is the treatment of smaller tribes and housing authorities. How comfortable do you feel with HUD's ability to develop a fair formula, and what do you think should be the parameters in statute to develop this formula?

Ms. JOHNSON. I'd like to first answer, and then Jolene can add anything additional that she would like.

Ms. NERTOLI. Yes, great.

Ms. JOHNSON. I want to tell you that I really strongly believed in the development of a formula. It wasn't something that came from the National American Indian Housing Council that we want to be able plan for the future and we didn't just want to be subjected to whatever we happened to get through some application process and find out come early spring that we've gotten—we were approved for a unit or a project and then have to move forward. So the National American Indian Housing Council has been proactive and asked HUD and requested that we work together in developing the strategy for developing the formula.

We've had a series of meetings. Right now we have a notice that is out for public comment. And in that we recognize the small housing authorities being one of the major issues. And so we have two proposals in this. This formula that we are developing right now is for the new construction element of the total overall block grant formula. With the small housing authorities, we have a baseline, and we either put in a baseline so that they get some funding on an annual basis and they are able to hold that, retain it. And with that they can leverage it. They can save it up, store it up for when they can make a project within the next 3 years, or something like that. So there are the two concepts that both have a baseline which gives an added advantage to a smaller housing authority, recognizing that.

Now with the total formula concept what we were envisioning is that we would use probably the grant formula structure to continue with the modernization element. We would come up with an operational element based upon what we believe the PFS system, if it was more equitably treated in Indian Country and we got our fair share of the PFS system, would be closer to what we would realistically need, and then this new development, which was totally an application process, didn't have any driving formula for it. We believe those would be three elements to be considered for developing the overall formula. And this was done by representation, regional representation, of housing authorities and tribal leaders.

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Ms. NERTOLI. I really don't have a lot more to add. I think that when we were meeting and when we were working on this, trying to come up with a formula, it was very obvious to us that we have housing authorities that are on either end of the spectrum, the very small or very large. And we wanted to be fair to everybody. And one of the things that has always plagued smaller housing authorities is the ability to operate, the basic requirements that we have to provide in order for operations, and we need to be able to operate to be successful. So I think that in this formula allocation that this may be, hopefully, will be a solution to this problem.

Mr. WATTS. I just want to follow up a question. Do you think that this bill will enable the private sector to participate?

Ms. NERTOLI. Pardon?

Mr. WATTS. Do you think that this bill will enable the private sector to participate in a housing project?

Ms. NERTOLI. I think the concept is good. I don't think that in order for us to move forward with providing housing for our families' needs should be based on whether or not we are involved with the private sector. I think that this needs to be an option. We need to be able to have this opportunity, but I don't think that this should be a requirement because this is another—to me, in some respects this could be another obstacle to providing housing for our tribal members.

Mr. WATTS. So you don't——

Ms. NERTOLI. I think it is a good concept, but I don't think that it should be required.

Ms. JOHNSON. And I think we were very conscious of wanting to have this element in the bill, so that we weren't excluded from being able to leverage with the private sector, that it was important for us to have the ability to be able to maximize those abilities. And where we can't, hopefully, we'll be creating models. And I don't expect this to happen overnight. I think it will take a long time. But as we start to create models, where tribal government enterprise or some other enterprise can assist with it in the housing critical factors in Indian Country, that we can do it.

For example, the native corporations in Alaska, if I could find a way that they could invest into housing stock and to assist me with infrastructure development, perhaps even purchasing infrastructure bonds from a bond sale, or perhaps giving me a capital investment, as long as I knew that I could give them some sort of return, leveraging my HUD money for subsidy portions, then perhaps there was a way for the private sector to be involved. But right now there isn't, because every time we start to put monies together or pool them together, or look for those resources, we get penalized on the amount of subsidy that we get or for our creativity in trying to think.

And so, we're hoping that we in Indian Country will be able to, with our diversity, be able to find different ways that will make it work for us. It is really difficult because the outside, private sector, hasn't found a way to work with us. We think it has to come from within us.

Mr. WATTS. Ms. Johnson and Ms. Nertoli, Mr. Chairman, thank you.

Chairman LAZIO. Thank you, Mr. Watts.

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I'd like to recognize my friend, and also thank him for chairing the hearing in the interim period when we had a bill on the floor which I was required to be there to help manage the bill. Mr. Bereuter, I want to add also, was instrumental in moving these hearings forward and was very involved in helping to develop this legislation. So it is with great pleasure that I yield to Mr. Bereuter.

Mr. BEREUTER. Thank you, Mr. Chairman, for your kind remarks.

Just as I was leaving, the question was being asked about the delivery of technical assistance, whether it is better to provide an opportunity to do it through a third party or exclusively through HUD. But, I didn't get to hear the answer. Did anyone offer an answer on that question?

Ms. NERTOLI. I offered the National American Indian Housing Council. If that is a third party, I guess it is, I'm not sure, but that is how I feel that the technical assistance should come——

Mr. BEREUTER. As an alternative source?

Ms. NERTOLI. Yes.

Mr. BEREUTER. So that there would be an option. Does anybody have any other suggestions or comments on that subject?

Ms. JOHNSON. No, but I would like to elaborate just a second on that. And the reason is, I believe, a third party is a better place to bring it than we are looking for from the outside. We need to have a lot more partners, and there are a lot more partners that are available right now that we could tap into their resources that are dealing with other minority groups or other low income groups. And those relationships, as we strengthen them, will also be able to help us. So looking outside into the overall arena will be good.

And National American Indian Housing Council has started to create those partnerships. And we have been putting together training that we have coordinated with Fannie Mae and other kinds of things, looking for grant funds from other sources to provide some of that technical assistance that is necessary.

Mr. BEREUTER. Thank you. I remember in a project some years ago in the Omaha reservation in my district, and to some extent in the Winnebago reservation, we had problems in trying to coordinate the delivery of HUD funds for the construction on new units, plus coordinating it with the Indian health service infrastructure grant funds. Not only are you dealing with two different agencies, but you are also dealing with two different authorizing committees to some extent. You are certainly dealing with two different appropriations subcommittees, unfortunately. So, it seemed to be almost an intractable problem of getting the money there for both things at the right time. Is it still a problem? If it is a problem today, what can we do to solve the problem or reduce the problem?

Ms. JOHNSON. I think that one of the things that—elements in this bill will help reduce that, and that is the comprehensive plan. I believe that when the tribal government sets its priorities for infrastructure development and also looks at its housing coordinating component, that that will start creating this working together.

I know that I have been a strong proponent and very supportive of that tri-party agreement. My problem with the tri-party agreement, it doesn't make you do anything. It's an agreement that sits there and says, "OK, perhaps Indian Health Service will have a

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priority for a HUD housing project," but it doesn't make the agencies sit down and coordinate. It doesn't make them priorities. It doesn't even make them talk to each other. And that's been one of my difficulties, is that you don't get BIA, Indian Health Service, and HUD sitting down together and coordinating the effort, coordinating their funds, or even looking how they are going to prioritize their funds within their own responsibilities and within—so the triparty agreement without that hammer isn't going—doesn't do us any good.

Mr. BEREUTER. What would be your reaction if we would mandate in the legislation a quarterly allocation process at the Federal level involving the two agencies? Would that be helpful? You can do all the planning that you want at the Indian reservation and do it very well, but if you don't get effective coordination and delivery of the Federal funds to supplement the block grant funds that we hope will begin to be available, you still don't solve the problem, I think. I think you still don't solve the problem.

Ms. JOHNSON. Right, and I would say in concept that I agree. I would like to see how that was written. I would definitely not want to endorse something that would become a coordinating—I would want to make sure that if it was a quarterly allocation that we would still have the ability to move forward like this annual plan. The way I'm looking at it is that we, a tribal government, a housing authority is able to put together a comprehensive plan and knows what kind of resources are available. On an annual basis, it's great for us to be able to plan. It's all great for us, like with the CDBG, to be able to say that if it was based on a formula allocation, we'll be able to get some loan guarantee on it in the future and that we'll be able to say that within 5 years this portion of our plan can be successful because we know how much money, or we have a good idea how much money, that our tribe is going to get.

Mr. BEREUTER. Thank you. Is there anyone else who would like to comment on that? I'd like to show you the language, Ms. Johnson, but it just entered my head about 30 seconds ago, so there's not much to show you at this point.

Several of you have mentioned the need for transitioning into the block grant arrangement, and I think—for example, Ms. Nertoli, you advised us properly about the difficulties that that could create for a tribe that was not ready. And, of course, we could establish a negative precedent and view about the workability of a program if we don't have the tribes up to the new job, and that would vary from tribe to tribe. So what is kind of the minimum transition period that any of you would recommend? President Hale, do you have any suggestion?

Mr. HALE. Well, if I may, I just want to say that at the Navajo Nation we have an elaborate housing program. We have the Navajo housing authority program; we have our own housing program within the Navajo Nation government. So we, as far as the Navajo are concerned, we are ready to take on the block grant without much transition. I don't think that there is really a need for a transition period.

Mr. BEREUTER. All right, then what about a tribe like the one I represented until recently with only 2,000 members all together on the reservation? They probably have far less capacity to move

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quickly. What does the least resource-short tribe need to have in the way of a transition?

Mr. HALE. Well, I think that's a question that should be directed toward the smaller tribes, and I think they would be in a better position to answer that.

Mr. BEREUTER. I agree.

Ms. JOHNSON. I think that one of the things that we're recommending is that, if we got the proper training and technical assistance money, and also if we are able to coordinate the efforts of models that would be created by tribes such as the Navajo Nation and be able to use those comprehensive plans. One thing that we're looking at in this bill, and certainly with our discussions with HUD, is that we don't make this a massive transformation. A small housing authority, if right now they are comfortable with just getting their feet on the ground and status quo with the kind of programs they are running, and they want to continue running that, should have the opportunity, and this bill allows for that. This bill allows for them to be run the way that they are running now, and as they are ready, as they develop capacity, move forward.

I would recommend a minimum of a 2-year transition, however, for moving into a comprehensive plan. I think that many housing authorities and tribes are starting to be used to putting together a comprehensive plan that was required with the comprehensive grant program. However, housing authorities that had less than 250 units haven't been part of that process, and that, once again, is the smaller housing authorities. So, we have to put together and teach them and show them the concepts and the elements of a comprehensive plan.

Mr. BEREUTER. Thank you.

Chairman Sunchild, looking at your own tribe, what would be a comfortable period of time for you?

Mr. SUNCHILD. I was about ready to make a suggestion here that throughout this country there are many housing authorities, you know, and recently in the last number of years, the two factions that have been starting to work together are the tribal governments and the housing authorities, but there are a lot of tribes that are ready now to go immediately into this, whereas other small tribes may not be ready to go into it. Large tribes, for example, have been into self-governance with the Bureau of Indian Affairs, with the IHS, which tells me that we have administered everything that was previously administered by those two Federal agencies.

So I would say that, and my housing authority concurs, that we are ready to take this block grant on now, but other tribes might say that they will not be ready. So that's what I'm suggesting is in this bill. Do not make that mandatory if there is a 2-year transition period. Those that are ready should go into it right away; in fact, maybe act as a pilot project, you know, and that sort of thing.

Mr. BEREUTER. Thank you.

Mr. Chairman, if I could have just one more question—there is a provision in H.R. 2406 which provides for an opportunity for a very troubled housing agency to be taken over into receivership. This is something we have for all public housing authorities. You are sitting in a city that is noted for having the worst run housing authority in the United States, and, finally, too late almost, it was

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put into a relationship under the direction of a receiver. And we hope that all the Indian housing authorities will operate 100 percent successfully. We know that is unlikely because it doesn't happen anywhere in our society, and so, where we really run into one that has to be rescued to save it from death, it's not quite as easy as dealing with the public housing authority because you have these special trust responsibilities with the Federal Government, this special relationship between the Indian housing authorities, the tribal councils, and HUD. And we have an arrangement in the bill which would—or at least it was in our thinking, I want to get your reaction to it—would allow HUD to appoint a receiver which they do for public housing authorities, but only with the expressed agreement of the tribe's governing body. And then they would—that receiver which was picked, in effect, jointly with the tribal council would proceed and try to bring the Indian housing authority's program up to the point where again they can operate in a traditionally flexible, autonomous fashion.

Is this a successful arrangement for us to try to deal with the unique circumstances of Indian housing authorities and their tribal councils? I hope that we never have any in this status, but we have to plan for the possibility if one needs to go into receivership.

Mr. HALE. Well, if I may, on behalf of the Navajo housing authority, we certainly would offer our technical assistance to the housing authority here—— [Laughter.]

Mr. BEREUTER. Well, that certainly would be an improvement, I'm sure. [Laughter.]

Mr. HALE. And show them how to run a program.

I really don't see any problem with the way things are set up because I think that you put your thumb right on the point, which is that the Federal Government as a whole holds a trust responsibility to Indian Nations, and in that context there is also Federal policy that allows for Indian tribes to be self-determining. Self-determination and trust responsibility sometimes have some conflict, but in the context of receivership, I don't see any other way that it can be handled in execution of the trust responsibility and making sure that the housing benefits are afforded to Indian people.

And because of that, I take a position that I don't see any problems with the way it's being done because you still have to have the governing body of the Indian Nation involved not only in the setting up of the housing entity, the local housing entity, but also in any drastic change in receivership, which is what you're talking about at the moment. If that is going to be the direction, that has to be a joint decision between the governing body and the local housing authority and HUD program.

Mr. BEREUTER. All right, does anyone—thank you very much, Mr. President. Does anyone else have any suggestions or comments about this subject?

Mr. SUNCHILD. With me, I guess—with me, just a reminder based on my testimony. The key to this, I see, is for tribal governments, in conjunction with the housing authorities, in enacting tribal laws to protect these whole mortgage rights of the banks and also the rest of other guarantors of those loans, and that for me covers everything from accountability to culpability and everything else. We've all been homeowners and clear to the responsibility to

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the housing, to the tribe, and our credibility to the lending institution.

Mr. BEREUTER. Thank you. Mr. Chairman, I appreciate you scheduling these hearings. I think our legislation is good legislation, but we have received some excellent recommendations for improving it here today which we should incorporate in one way or another in large part, I would think. And so, I want to thank you for the hearings, and the witnesses for their testimony.

Mr. SUNCHILD. One final question about part of—you know, Indian Country has long awaited an option and an opportunity and this has been forthcoming in the last number of years, and this happens to be one of the good legislations. But we're wondering, Mr. Chairman, when do you—how soon do you think that this will be considered in this session?

Chairman LAZIO. Chairman, what we would like to do is to consider the comments that you have made. We want to continue to build on the tremendous foundation that we have laid in terms of our relationship with the people who have expertise and background both in terms of leadership, tribal leadership such as what you provide, and the people who have expertise in housing. I would like to move this legislation as soon as possible with the one proviso that I want to give us enough time so that all tribes have the ability to provide input and to build on the good things I think that we are doing here.

Mr. SUNCHILD. Right, that was supposed to be my suggestion to the National Indian Housing Board, to begin writing letters in support of this particular legislation.

Chairman LAZIO. Thank you. That would be very helpful. And, also, I should say that it is important to build support for the legislation and also to suggest ways to improve it. As Congressman Bereuter was mentioning, we've received some very good comments today. This is part of a process. The last thing that I would like to do, or I think that Congressman Bereuter would suggest that we do, is that we would say that this is the way it is going to be and there will be no more improving. We're going to keep listening; this is part of the whole process.

And so, when we feel comfortable—and when I say "we," I mean you and us together as partners—feel comfortable that we have as good a bill as possible, we will move it. And I hope that that is sooner rather than later.

I just have a few questions if I'm not keeping the panel too long. I know you have been testifying for quite some time, and I want to say that you do the subcommittee great honor by being here. I know the great difficulty that many of you took to get here.

President Hale, I was out in Phoenix recently talking to some of the people from the Navajo Nation and received some very good comments. I congratulate them on their insight.

I'd like to ask both you, President Hale and Chairman Sunchild, what percentage of your respective populations would you say are in need of housing assistance? We'll start with President Hale.

Mr. HALE. I can give you exact numbers. If you will look in my testimony, I provided the information about the numbers of newly constructed homes that are needed to alleviate severe overcrowding. And that number that I gave is 13,539 new houses are needed.

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And then, also, we have 29,099 existing housing units on the Navajo Nation that are in substandard condition and need to be brought up to standard. In terms of the percentage of the need, I can't really give you that amount, but I can give you the numbers. These were based on surveys that were done by the Navajo Nation back in 1990, and, obviously, with the increase in population and our people getting a little bit older and moving out of the houses, this has probably increased quite dramatically.

Chairman LAZIO. Chairman Sunchild.

Mr. SUNCHILD. Based on my population and then based on the people of certain ages, I would say about 70 percent would need housing.

Chairman LAZIO. Let me again ask both of you—many people believe that housing needs are symptomatic. If you had enough resources to be in the marketplace, you would be there. If you had enough economic development, enough jobs providing income, you could build your own houses or make your own choices without subsidy. So, economic development becomes a very important issue here as it relates to housing. Do you see the two issues of housing and economic development as being interrelated, and how can the tribe play a more active role in ensuring that there is cooperation between housing and economic development in Indian Country?

Mr. HALE. At Navajo, if I may, Mr. Chairman, at Navajo what we're doing is treating housing as an economic endeavor. So, as a result, we understand and recognize that housing cannot be treated in a vacuum. We have to take into consideration the financing which you were talking about, technical assistance, and involvement of the private sector, private enterprise into these projects. And I see that the only way that we are going to be able to do that is to bring in banking facilities into the Nation in order to execute those loan guarantees. So you can't just treat the housing in a vacuum. You have to also consider the availability of lending institutions, financial institutions, within Indian Country, within Indian reservations.

And I would venture to guess that a lot of the Indian Nations do not have a single banking institution within the confines of their geographical boundaries. For us, the population of over 250,000, and a square mileage of over 27,000, we only have had until recently three banking facilities. So banking plays an important part in this. And, also, the land status plays an important part in this. So we have to take that all into consideration when we talk about housing.

And if you also just look at housing as a contributing factor to the social ills that we are experiencing not only in my Nation but also in other Indian countries, the rise in child abuse, child-related crimes—that, by the way is becoming the No. 1 crime on the Navajo Nation in a recent study. I would venture to say that the reason for that is because we are not providing housing for our families. The Navajo say that the house, the hogun, as we call them traditionally, is where the teaching is. That is where learning takes place and that is where life begins. But if you don't have any housing, then you don't have teaching; you don't have learning; you don't have a beginning of life for our children. And as a result, they grow up and they are not contributing members of society.

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And this is also where—the hogun is where the fire burns, where the water is, where the food is, where the tools are. And if you don't have a home, you don't have a fire; you don't have water; you don't have food, and you don't have the tools that are necessary to be self-sustaining. So it all interrelates and is all inter-dependent. And for that reason, you cannot treat housing in a vacuum. You have to treat it, and you have to look at it as an economic endeavor, and also look at it in terms of how it contributes to other social ills. And that is the way we're approaching it at Navajo. And with the help of the subcommittee here, and Congress, we can move in this direction.

And, also, the question about what Indian Nations can do, in my estimation, Indian Nations can do tremendously in terms of advancing the agenda of providing houses for their constituents. At Navajo Nation we are now engaged in a reinvention of our own government, of trying to move a lot of authority out of the central and out in the communities, out in the local governmental units of our government, and also move a lot of the money with it. So there's going to become a time when money that are allocated for housing, that it will go directly to those communities. So the closer that money is to the people who need it, the more that we will be able to address those needs.

And we have in this effort, in this initiative, proposed to the Navajo Nation council, which is the legislative body of the Navajo Nation, amendment of fundamental changes in the way the government is done there, which is a real centralized exercise of power, moving a lot of that out to the communities, including the ability to provide homesite leases to our membership. Right now we have a real lengthy process of providing homesite leases that are allocating or designating land upon which our members can build or construct a home. That is a real lengthy process. I hear people coming up to me saying that I've waited 15, 20 years to get a homesite lease. And that is outrageous. So, we're trying to tackle that at the homefront and making it a lot easier for people to get homesite leases and, therefore, begin construction immediately and have homes for the family, for the children.

And, obviously, as I have said before, the home is where life starts, and we certainly appreciate the subcommittee's attention to this matter and recognition of the fact that this is an essential element and a basic necessity of life, and I appreciate that very much.

Chairman LAZIO. You have more than our attention; you have our support.

Let me ask, Mr. Chairman, do you want to comment on that at all?

Mr. SUNCHILD. Sure. First of all, I want to thank President Hale here for some of those reminders about what a house or a hogun or a tepee, what that is worth and means to Indian people.

But, basically, yes, to me all these go hand in hand. Housing, economic development, education, health, land, all of these come together. Many, many times throughout my time we have been on the verge of getting to par, where Indian people need to be. And something happens where rules are made, new initiatives are made which are actually a step backward for Indian governments. And this has happened continuously.

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And right now, admittedly, even this particular bill, how much I rave on it, how beautiful it is, we are talking about a salary base of Indian people. It is what it is worth, you know. As John Sunchild, how long is he employable?

But as a tribal government, I have to look at it in another way. I have to look at it in terms of what I can bring in terms of economic development to provide not only more work, not only provide more training, not only to provide more awareness of "Hey, I need to be on par with the Joneses," and not only those type of things, but I am in the tribal visionist committee which tells me that I have to look for those ventures not only to create the employment, training, and all those things, but I also have to look for ventures that provide income that provide money. And the way my tribal constitution reads, there has to be certain amounts of that money that I hold in escrow for the people. It is their money. It is not the tribal government's money; it is the people's money. And a lot of tribes call this per capita.

We have forever dealt with these types to build up our reserves on our existing leases, grazing leases, mineral leases, and those type of things. Now with the era of the national leadership, Congress, the mode you're in, the legislation, the administration, the mode they are in of change, we have to change along with that. We have to change along in terms of, yes, we have to recognize that the budget needs to be balanced. Perhaps right now, where I am sitting, it is coming too fast and too soon and too much. That is giving me problems. What I need to look at now, they are going to have to take out those existing leases. How I can—that particular land, whether it is a mountain, mineral lease, or whatever it is, grazing lease, I have to take a look at how I can expand that to make more money, how I can diversify that to get more money. I have to do all of these things with whatever I've got. If I've got a tribal herd, I've got to do the same thing with that. If I can, we have to think of ways that we can diversify and expand to offset some of these cuts that are real.

This is why a decent home, a healthy element in a home, all the things that President Hale talks about—if every head of household had of his mind when he walks out of the house to deal with these economic issues, to educate these young people, make sure that they are healthy, make sure that he teaches them right—to go out into this competitive world and economy, we need all, that is why they go hand in hand, each and every one of them. With the help of this legislation, maybe we can begin to soar again, and, hopefully, there is no disruption to start to bring us down, like has been happening for the last 30–40 years. Thank you.

Chairman LAZIO. Thank you very much. Let me ask Chairperson Johnson, if I can, a question about the tools that are needed for both economic development and housing. Conventional wisdom is that there is not more home ownership because of the trust nature of the land, and that financial institutions would not want to do business, as much business as they should be doing, in Indian Country because of the trust nature. Is that true? Or is it infrastructure or is it the secondary markets? What tools do we need beyond what we need in this legislation?

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We're trying to move forward by establishing longer lease periods that will help to conform to the secondary market. Is that enough, along with the Loan Guarantee Program, which begins to meet the needs of infrastructure? I know there are more significant infrastructure needs on tribal land than there is on some other land because, obviously, of the rural nature to bring in power and water and things like that. If you could speak to what are the most important tools that we have in this legislation that you think will be able to leverage more homes, and what else should we be thinking about in the out years?

Ms. JOHNSON. OK, I think there are some good tools in this piece of legislation, as you mentioned, the longer lease term; the proposal that we brought for you to consider, the NAFSO element; in some fashion the training technical assistance components of that particularly. I believe that is going to be a vitally important component in Indian Country, to get the education out there and to be able to create models for tribes to use, to be able to create models for housing authorities to use.

And you're also still looking at, if you're looking at conventional financing or assisted conventional financing with the loan guarantees, there is only a certain segment of the market that is ready right now. And at this point we are working toward reaching that market. We are still trying to develop these relationships with financial institutions, and as President Hale mentioned, it is starting to happen. It is a slow process. Our negotiations with Fannie Mae were a slow process, but Fannie Mae has very much stepped up to the table at this point. But a lot of that has to do with perceptions. Still it is a perception of dealing with Indian Country.

I truly believe, when I was talking to the Farmers' Home program, or whatever they call themselves these days, in meeting with them through a regular teleconference system, that I have been doing to try to bring up the understanding, is that there are still perceptions out there, number one. And, number two, that doing business in Indian Country is a very good investment; that when we look at the number of defaults, for example, I don't believe that we are going to see the significant number of defaults because of the local commitment, as I was mentioning before.

But the other tools that are out there that we need, we need to be able to use those. Mortgage revenue bonds, we need those kind of things. Things that are standard in the industry for the rest of the Nation should be standard for Indian Country, too. We should be able to have the infrastructure bonding capacity without all the additional restrictions for Indian tribes that other municipal governments don't have to have. Those are the elements that work for other communities, municipal governments. They need to work for our governments, too.

The reason that I'm still supportive of the NAFSO, even though Fannie Mae has come up to the secondary market, because we have to create a financial infrastructure in Indian Country with our people understanding financial infrastructures, because if you want to talk about true economic development, we have to be able to bring that level of understanding to all our tribes, not just to the successful tribes, but to all our tribes. And we aren't going to do that if we don't bring all of our people along. And we can't just be

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a few, and we can't be reliant on the outsiders. It has to come within. And that is why I'm still supporting NAFSO.

I believe the technical assistance and the management and the administration components of that, the training portions as it trains not just the housing authorities but people within the system, it is going to be very important for Indian Country. And those are some of the tools, along with the tax-exempt status, even so much as that the tax credits that are available to States. We should be able to have tax credits available for Indian Country. Now I know as a housing authority I could go to my State and put together a tax application, but I also know, as sitting on the board for Alaska Housing Financing Corporation and putting together the priorities for rural communities or mainly Indian villages in Alaska, it still didn't make it work. I gave them a major leg up, and it is hard to make a project feasible. Therefore, we might have to look at that tax credit structure a little bit different for Indian Country.

Chairman LAZIO. I might add that I doubt that Fannie Mae would have made as much progress as it has made—and certainly they have a way to go—without your active role in urging them, and I say that with great understatement.

Let me address this last question to Ms. Nertoli. Again, thank you for being here. Do you think that we need to do a better job of integrating our resources? We're trying to move toward this sense of giving tribal governments and housing authorities more say about how the money is spent after establishing goals, backing off and letting the tribes and housing authorities decide how best to meet those goals. Should we be doing that with other forms of Federal resources, for instance BIA, that are non-housing right now and not properly within the jurisdiction of this subcommittee? Should we be thinking in that way, or are you comfortable with the way the resources are delivered now?

Ms. NERTOLI. Well, I'm not sure I'm qualified to speak on that totally. I know that our tribe is self-governed. We have taken over the IHS funding and made determinations about how that funding is going to be spent within our tribe. I know that we have a very strong say in our BIA funding that comes down to the tribe. I think that, yes, I think that tribes should have more say in these types of other government fundings that are being supplied to tribes. I think that a number of tribes are being what they call self-governed. It has been very successful for our tribe. I'm very proud of the things that we have been able to do with this self-governance and just very much taking a strong stance and saying these are the dollars that we have, and we are going to say how we are going to be spending, and we are going to determine how we are going to provide services to our tribal members. Yes, very much so.

Chairman LAZIO. Does everybody else agree with that?

Mr. HALE. Absolutely.

Chairman LAZIO. What is striking for me is that many of the things that you have all testified to are also part of the consciousness of the people that are very much involved in housing throughout America's cities. They are talking about the same things that you've talked about, the sometimes irrational way that resources are delivered, the fact that everything comes together. No commu-

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nity has just a housing problem. You likely have many different problems if you have a housing problem. You are likely to have an employment problem, a job training problem, and maybe an educational problem. Communities have economic development problems. They have insufficient resources.

Prosident Hale, you spoke of having only three banks for a tremendous geographic area. That is not acceptable, and we need to work alongside you to make sure that those changes take place, and that you have the tools that you need to pursue the vision that you have for your own people in a way that we can't do here in Washington. But we can help. We can be your partner. We just don't want to be a substitute for your leadership. And that's what I think that this bill is all about, and I very much am grateful for the input that has helped make this bill possible. This bill was not written from my staff or from the members of this subcommittee. It was largely as a result of the input of Native Americans, and I am very, very grateful for that, and very, very proud of the way that has happened. And the changes that will occur in this bill will bo a product in the same way, in the same process.

So I want to thank the panel for taking all the time that they have and all the effort that they have made to get here. Again, I am very proud of the fact that you are here and very grateful and very honored. And with that being said, we look forward to a continuing relationship and dialog.

This subcommittee is adjourned. Thank you very much.

[Whereupon, at 4:17 p.m., the hearing was adjourned subject to the call of the Chair.]

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APPENDIX

February 27, 1996

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RICK LAZIO
CHAIRMAN
Subcommittee on Housing and Community Opportunity

Opening Statement*

Hearing on:
Native American Housing Assistance and Self-Determination
February 27, 1996

The Subcommittee will come to order.

I'd like to welcome our distinguished panel to the Subcommittee's first hearing on Indian housing issues for this session of the 104th Congress.

Article I of the United States Constitution makes clear that the Congress has responsibility for dealing with Indian Tribes. Subsequent treaties have further spelled out the unique relationship between tribes and the federal government. It is an important function of this Congress, and therefore this Subcommittee, to deal with issues of Indian housing and economic development in a manner that is responsible to the intent of the framers of the Constitution and the signatories of those treaties.

We are at a crossroads. Legislation that has passed from the Banking Committee and will be taken up on the floor of the full House soon, repeals and replaces the United States Housing Act of 1937. This Act is the basis for most of this Nation's federal housing policy for nearly 60 years, has grown unwieldy and detached from the realities of modern communities and neighborhoods. This presents us with a unique opportunity to rethink all housing policy, to look honestly at how programs are constructed and managed and to start from scratch.

That is precisely what this Subcommittee will do: we will look at Indian housing and deal with its unique challenges so that we can take a further step toward self-determination and self-reliance of Indian communities.

Although I have been working for some time on legislation -- the Native American Housing Assistance and Self-Determination Act of 1996 -- our goal today is not to discuss specific provisions of legislation, but rather to deal with the broad issues and challenges of housing in Indian country and what the federal government's role should be in providing assistance directly and indirectly.

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* This statement is as prepared. Actual text as delivered may differ slightly from prepared text.

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Since the advent of Indian housing programs under the jurisdiction of the Department of Housing and Urban Development, Indian housing has been a subset of public housing. Programs designed predominantly to meet the needs of America's urban landscape have been ill-equipped to handle the unique nature of Indian housing programs. The trust nature of reservation land and the government-to-government relationship between HUD and tribes are but two examples of legal structures that make Indian housing issues different than general public housing. Indian housing should be divorced from public housing programs because the needs and the problems are different.

We also have to begin to address the very serious capital needs of Indian country. While discussion and debate are underway on other legislative initiatives such as NAFSO, the Native American Financial Services Organization, we can take steps now to ensure public dollars going to tribes for housing can be used to used to leverage private dollars. Providing the maximum amount of flexibility in the use of housing dollars, within strict accountability standards, is not only a further affirmation of the self-determination of tribes, it allows for innovation and local problem-solving capabilities that are crucial to the success of any community-based strategy.

Further, the formula-driven block grant concept allows us to implement a new concept in Indian country -- using a model similar to the Section 108 loan guarantee for Community Development Block Grant funds -- tribes could use federal support to borrow capital from existing financial organizations and markets to expand the number of new units that can be constructed. This helps alleviate the serious need for new housing units in Indian country and at the same time lets private capital and investors take up the slack where federal funding cannot.

Involving private markets and private real estate entities must be a part of a successful strategy to improve economic conditions in Indian country. Simply put, we need more "bang for our buck" if we hope to address the needs of Indian communities in a meaningful way.

I look forward to a thoughtful discussion on these and other topics today. The panel before us is both knowledgeable and experienced in dealing with these problems and I look forward to their testimony.

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JON D. FOX
13TH DISTRICT, PENNSYLVANIA

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STATEMENT OF THE HONORABLE JON D. FOX

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

HOUSE BANKING AND FINANCIAL SERVICES COMMITTEE

FEBRUARY 27, 1996

THANK YOU, MR. CHAIRMAN, FOR YOUR LEADERSHIP IN ADDRESSING THE VITAL ISSUE OF NATIVE AMERICAN HOUSING. I WOULD ALSO LIKE TO THANK OUR DISTINGUISHED WITNESSES - PRESIDENT HALE, PRESIDENT SUNCHILD, MS. JOHNSON, AND MS. NERTOLI - FOR TAKING THE TIME TO JOIN US TODAY.

MR. CHAIRMAN, I AGREE WITH YOU THAT WE MUST TAKE AN INNOVATIVE APPROACH TO EMPOWER NATIVE AMERICAN COMMUNITIES TO HELP THOSE IN NEED. YOUR LEGISLATION IS A TREMENDOUS STEP FORWARD IN OUR EFFORTS TO WORK IN PARTNERSHIP WITH LOCAL COMMUNITIES TO SOLVE THE PROBLEMS OF HOUSING ON INDIAN RESERVATIONS.

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WE MUST EASE THE BURDEN OF FEDERAL REGULATIONS SO THAT LOCAL COMMUNITIES CAN CREATE AND CARRY OUT STRATEGIC PLANS OF THEIR OWN DESIGN TO IMPROVE BOTH PUBLIC HOUSING AND THE AVAILABILITY OF PRIVATE HOUSING AND CAPITAL OPPORTUNITIES.

I LOOK FORWARD TO LEARNING FROM OUR WITNESSES TODAY AND TO WORKING CLOSELY WITH THE NATIVE AMERICAN COMMUNITY AND CHAIRMAN LAZIO TO MOVE FORWARD ON THIS CRUCIAL ISSUE. THANK YOU.

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Opening Statement of the

HON. J.C. WATTS, JR.

Before the House Subcommittee on Housing & Community Opportunity
February 27, 1996

Good afternoon. First I'd like to thank the Chairman and his staff for holding this hearing today. I addressed this issue with my colleague from Arizona, Rep. Hayworth, on the House floor last July during the VA/HUD Appropriations. The need for additional and improved Indian housing is well documented, the need existed last July and exists today.

Considerable difficulties impede private financing of Indian housing. Indian capital is scarce and frequently there is no security for mortgage loans or similar financing because title to most Indian land is held in trust by the United States. I tell you there are few commercial lenders in Indian country, and most lenders often are reluctant to extend credit for housing on Indian lands.

For these reasons, Indians have turned to various federal housing programs for assistance. Combining these programs into a single HUD office, dedicated to helping Native American communities meet their housing needs, not only simplifies the bureaucratic maze but it makes good common sense.

Living up to our treaty obligations and honoring our special trust relationship with the sovereign Indian Nations of this Country is not an issue to be taken lightly. I'm proud to be a part of the process that helps our tribes move to a place where they are able to better self-govern. The old model for providing housing assistance to Indian Country is far too prescriptive. Block-granting to tribal governments and tribal housing authorities is a step in the right direction that allows tribes, not federal bureaucrats, to determine what their local tribal housing needs are and how they should be met.

While the idea of block granting is truly consistent with the concepts of self-governance and self-sufficiency, we need to proceed with careful contemplation and without acting too hastily to cut the means which will help the sovereign nations of this Country to become truly self-sufficient and self-governing. In this light, I am interested in focussing on the technical assistance that would be available to the smaller tribes that do not have housing authorities or existing comprehensive improvement assistant or affordable housing strategy plans.

Again, thank you Mr. Chairman, for bringing this issue to the legislative forefront. I look forward to working with you and the tribes on a bill that will help Native American families and individuals of this Country attain the American dream of having a home to call their own.

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THE
NAVAJO
NATION

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ALBERT A. HALE
PRESIDENT

THOMAS E. ATCITTY
VICE PRESIDENT

Written Statement of

PRESIDENT ALBERT HALE
The Navajo Nation

Native American Housing Assistance and Self-Determination Act of 1996

U.S. House of Representatives Committee on Banking And Financial Services
Subcommittee on Housing And Community Opportunity

February 27, 1996

Mr. Chairman and Members of the Subcommittee, I am Albert Hale, President of the Navajo Nation, America's largest Indian tribe. On behalf of the Navajo people I appreciate this opportunity to present the Navajo Nation's views and recommendations on the "Native American Housing Assistance and Self-Determination Act" and Indian housing issues before the House Subcommittee on Housing and Community Opportunity. At the outset, I want to thank Chairman Mr. Lazio and other Subcommittee Members for their attention to the Navajo Nation's needs. We look forward to continuing our good working relationship with the Subcommittee.

Profile of the Navajo Nation

Spanning Arizona, New Mexico and Utah, the Navajo Nation encompasses 17.5 million acres -- one-third of all Indian lands in the lower 48 states -- and is larger than Connecticut, Delaware, Maryland, Massachusetts and Rhode Island combined. Unlike those states, however, the Navajo Nation is home to the poorest of America's rural poor and while the average unemployment in America today is 5% the unemployment rate in the Navajo Nation averages 38% to 50%, depending on the season. Over 56% of the Navajo people live in poverty. Per capita income averages $4,106, less than 1/3 of that in the surrounding states. Though the Navajo Nation is slightly larger than West Virginia, our 2,000 miles of paved roads compares to barely 11% of West Virginia's 18,000 miles. Until recently, we had just three banking facilities within our entire 28,500 square mile area.

Currently, the scarcity of adequate housing on the Navajo Nation is of a magnitude that can be characterized as a "housing crisis". The Navajo Nation has determined that

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13,539 newly constructed homes are needed immediately to alleviate severe overcrowding. A majority of Navajo families maintain extended family relationships, often living in groups which include grandparents, uncles, aunts, cousins, nephews, nieces, and other "clan-related" individuals. It is not uncommon to find Navajo families as large as eight to twelve members living in a two room house. Given this situation, it is easier to understand the low statistical numbers of homelessness on the Navajo Nation.

Additionally, many existing houses are in disrepair and/or without even minimally adequate amenities. The Navajo Nation estimates that 29,099 existing housing units on the Navajo Nation are in substandard conditions because they lack either running water, indoor plumbing, electricity and/or central heating. This means that approximately 82 percent of the existing housing units on the Navajo Nation need to be equipped with at least one type of these amenities. Furthermore, according to the 1990 Census, 78% of the houses on the Navajo Nation lack telephones, 77% of Navajo homes lack plumbing, and 72% lack adequate kitchen facilities.

Despite these poor conditions, many Navajos cannot renovate or perform much needed repairs to existing home because tribal and federal housing programs specifically geared toward Indian reservations (i.e., certain HUD programs) continue to be underfunded. In addition, many Navajos who would normally qualify for private sector loans if they resided off the reservation cannot secure financing through bank or credit unions because of the unique lending issues on the reservation (e.g., lenders' unwarranted concerns about collateral or repossession). This leads to a decay of housing and physical infrastructure, resulting in a massive deterioration of Navajo communities and family life.

Navajo Nation Efforts

The Navajo Nation is committed to resolving all issues constraining the availability of safe, adequate and affordable housing to Navajo families in need. To address the housing situation, the Navajo Nation's Division of Community Development and the Navajo Housing Authority (NHA) currently administer all of the programs responsible for upgrading and renovating existing homes as well as new housing construction.

For FY 1997, the Division of Community Development is expecting to build approximately 160 new housing units at a cost of approximately $5.1 million. The Navajo Nation currently contributes over half of this total ($3.6 million) solely for construction. The State of Arizona also contributes approximately $100,000 for new housing construction. Over and above its contribution for materials and equipment, the Navajo Nation provides approximately $1.5 million to pay for all of the wages, salaries and benefits of the construction crews and contractors who build these homes.

The Division of Community Development is also expecting to renovate and make necessary repairs to 78 existing homes on the Navajo Nation through the BIA's Housing and Improvement Program (HIP) and USDA's Housing Preservation Grant Program. These funding levels account for approximately $1.7 million and $103,500 respectively. In addition,

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the Division also receives approximately $283,182 from the U.S. Department of Energy (DOE) to insulate and weatherproof 176 homes on the Navajo Nation.

Navajo Housing Authority (NHA) administers approximately $27 million a year to construct roughly 270 new housing units on the Navajo Nation. These funds are derived solely through grants from HUD, and are mainly targeted toward lower income Navajos. However, approximately five percent of the funding is authorized by HUD for housing for middle income Navajos. Despite this authorization, NHA currently has a long list of middle income Navajos waiting to be served through this program. NHA also receives approximately $14 million from HUD to renovate and repair 150 housing units and to upgrade existing utilities on the Navajo Nation.

In addition to constructing new homes primarily for low-income Navajos, the Navajo Nation has attempted to provide the appropriate legal and financial mechanisms which would allow for middle-income Navajos to purchase new homes. To accomplish this, in November 1993, the Navajo Nation enacted the "Navajo Nation Deeds of Trust Act" which fulfills the legal requirements and other prerequisites established by the U.S. Department of Veterans Affairs (as evidenced by a Navajo Nation-Veterans Affairs Memorandum of Understanding) in providing home loans to qualified Navajos living on trust lands. That act became effective on March 18, 1994, when implementing regulations were adopted.

Although the Navajo Deed of Trust Act was enacted to address foreclosure criteria required by government home loan programs, the Navajo Nation is committed to developing and/or refining current Navajo laws in order to encourage conventional lending for home construction and/or renovation. In fact, the Navajo Nation is currently on the verge of approving a Memorandum of Agreement with Fannie Mae that would address legal questions regarding the enforcement of mortgage agreements, thereby enabling eligible Navajo residents with greater opportunities for home ownership. In addition, the Navajo Nation is working on streamlining approval of Homesite Leases and on similar measures for businesses.

Navajo Nation's Comments and Recommendations

The Navajo Nation supports the concepts proposed in the "Native American Housing Assistance and Self-Determination Act of 1996." We agree that, given the government-to-government relationship the Federal government has with each Indian nation, block grant funds for housing should go directly to Indian nations or their tribally designated entities. We further agree that Indian housing should be separate from other Federal public housing programs. The Navajo Nation offers the following comments on specific portions of the bill.

Funding Formula

The Navajo Nation proposes that additional factors should be considered in the funding formula to include population, land base, and lack of tribal infrastructure development. Whatever formula is developed, it must be fair and equitable to accurately

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reflect the real needs of Indian nations. The Navajo Nation is willing to assist the Subcommittee in developing such a formula.

Allocation of Appropriations

The draft bill identifies an estimated $650 million over the next five years to implement the provisions of this Act. Although we applaud the introduction of this bill, this amount is grossly inadequate. Preliminary estimates indicate that $1.44 billion will be required to realistically address the Navajo Nation's housing deficit. According to a 1990 housing survey, the Navajo Nation had a waiting list of 13,539 families in dire need of homes. The housing crisis that plagues the Navajo Nation and the rest of Indian country requires adequate resources for their success.

Other Infrastructure Development

While the Navajo Nation supports this bill, we recognize that the success of this bill is contingent upon other legislative efforts necessary to address the extreme lack of infrastructure that exists on Indian nations. Comprehensive rural physical infrastructure needs assessment or planning have not been conducted on Indian lands or with Indian nations. The Navajo Nation believes that Navajo communities must be empowered with basic amenities available to other Americans, such as running water, solid waste disposal, electricity and telephone service. The Navajo Nation estimates that $533 million is needed to bring thousands of Navajo families the same access to safe drinking water, sanitary waste disposal systems, rural electricity and telecommunications as is now enjoyed -- and taken for granted -- by the rest of rural America.

Creation of Additional Federal Regulations and Policies

The Navajo Nation recommends that regulations should be drafted with the input of Indian nations and that this bill identify and resolve conflicting or inconsistent federal housing program regulations and policies which now pose obstacles to the development of a streamlined, coordinated and comprehensive Navajo Nation federal housing partnership. Examples include: federal agency acceptance of Navajo employment in contracting; federal agency acceptance of the role of the Navajo courts in resolving housing loan defaults and related issues; and federal agency inconsistencies in NEPA documentation requirements.

Continued Eligibility for Other HUD Programs

The Navajo Nation is experiencing increased funding requests for HUD-related housing programs including independent elderly homes, nursing homes, and housing opportunities for people living with HIV/AIDS. The Navajo Nation expects that the Subcommittee will continue to allow Indian nations and/or their tribally designated entities to request funding from HUD for these types of facilities.

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Conclusion

The Navajo Nation appreciates this opportunity to comment on the draft bill. The Navajo Nation believes that Indian nations are the best authority in determining the management and goals of their housing programs and are increasing their capabilities to develop and properly manage such programs. However, we need to emphasize time is running out for Congress to move this bill forward; therefore, the Navajo Nation urges this Subcommittee to move this bill quickly and pass the legislation so that Indian tribes may have this incentive to advance their housing programs. We look forward to working with the Subcommittee on this important legislative effort.

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The Chippewa Cree Tribe of the Rocky Boy's Reservation

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STATEMENT OF JOHN SUNCHILD, SR

CHAIRMAN

CHIPPEWA CREE TRIBAL COUNCIL

Rocky Boy's Indian Reservation, Box Elder Montana

and

THE NATIONAL TRIBAL DEVELOPMENT ASSOCIATION

BEFORE THE U.S. HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON BANKING AND FINANCIAL SERVICES

WASHINGTON, D.C. FEBRUARY 27, 1996

Mr. Chairman and members of the Subcommittee on Housing and Community Opportunity, it is an honor to appear before you on behalf of the Chippewa Cree Tribe and as Chairman of the National Tribal Development Association. My Tribe is located in north-central Montana and is comprised of approximately 4,500 members of whom 3,000 reside on the 130,000 acres of tribal lands which comprise the Rocky Boy's Indian Reservation. The National Tribal Development Association is a recently formed organization of tribes who have come together to promote their common interests in developing the local economy on our reservation. We have concluded that the voice

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and leadership of tribal governments is needed to elevate the consciousness of the public and the Congress regarding the "third world country" economic conditions which exist on all but a few Indian reservations. The NTDA tribal leaders also share a common conviction that economic self-sufficiency for our people will only be achieved through self-help and tribal initiative.

Mr. Chairman, the legislation you have proposed holds great promise to benefit members of my tribe and all Indian tribes. The proposed Native American Housing Assistance and Self-Determination Act of 1996 is based on the recommendations of many tribal leaders and Indian housing experts who worked for two years with the congressionally sponsored, *"Native American Commission on American Indian, Alaska Native and Native Hawaiian Housing."* As you may be aware Mr. Chairman, the Commission, in addition to identifying much needed changes in the federal government's public housing programs, also documented the many obstacles to the development of private housing in Indian Country. If Indian people are ever going to enjoy the benefits of private home ownership on the same basis as the rest of society, a special effort must be made to bridge the gap between private financing and the reservation.

The key to bridging this gap, according to the best thinking of many experts, is to make it possible for local banks and mortgage companies to package viable mortgage loans for reservation home owners. At the same time, it is necessary to replenish the loan funds of these local lenders by making it possible for them to consolidate and sell these loans in the secondary mortgage market. Thus, the

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Congressional Study Commission of tribal leaders and Indian housing experts recommended that a new organization be established under federal charter that could serve as an "Indian Fannie Mae". HUD may not support a separate organization; however, a separate financial organization would insure the success of tribal member mortgage financing. They also recommended, and I am very pleased to see that you have incorporated this in your bill, that Indian public housing funds should be available for leveraging private capital for the construction and renovation of reservation housing.

The Chippewa Cree Housing Authority has first hand experience in tackling the problem of private mortgage financing on the Rocky Boy's Indian Reservation. We conducted, on our own initiative and at our own expense, a special workshop in August of 1994 on the topic of reservation mortgage financing. Inspired by the establishment of a new "Indian mortgage guarantee program" by the Office of Native American Programs of HUD, the so-called "Section 184 Program" authorized in the 1993 Federal Housing Act Amendments, we invited private mortgage bankers, Fannie Mae representatives, HUD and BIA representatives and Indian Housing Authority representatives from throughout Montana to a meeting on the Rocky Boy's Indian Reservation. In the course of a day and a half of meetings, including tours of housing sites on the reservation, we discussed all the different steps that would be needed to make it possible for a bank to make a mortgage loan on tribal trust lands. This included enacting tribal laws to protect the leasehold mortgage rights of the banks and the risk exposure of HUD as the guarantor of mortgage loans, and meeting the credit or underwriting standards of Fannie Mae.

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Mr. Chairman, I must report to you that almost one year later there has yet to be a single private mortgage loan made on our reservation. Although we have a great need for low income housing, we have some tribal families who have steady jobs and a good credit record and who would very much like to purchase or have built their own private home. We have available homesites and have enacted a special mortgage protection ordinance law. To the best of my knowledge, the reason we still don't have private mortgage loans being made is that banks are not convinced that their loans would be sellable to Fannie Mae. Each leasehold mortgage must be approved by the BIA and HUD must approve the guarantee and all of these steps require a sustained effort by someone with the technical expertise and resources. In addition, the water, sewer lines, electrical services and other forms of housing infrastructure are not in place for private housing sites. To the extent we have such services, they are constructed through HUD/BIA/IHS agreements that only apply to public housing. Thus, under the current Indian Housing Program as administered by HUD, a private housing developer would have to find their own financing for such physical infrastructure.

Mr. Chairman, these conditions exist on nearly every Indian reservation that I am aware of and, as a result, private home ownership continues to be simply a dream and an unmet need despite the sincere efforts of HUD, private banks and the willingness of the secondary mortgage market buyers. Tribal leaders like myself are greatly frustrated in our efforts to help our tribal members by making the existing system work on the reservation. The Native American Housing Assistance and Self-Determination Act would enable our tribes to assist in exactly this environment. It would enable us to work in partnership with local lenders and private housing

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developers to put the pieces together for private housing. Where necessary, a tribe could also assist in financing the physical infrastructure for housing development and make equity injections into a project. Local lenders would be in a better position to sell their reservation mortgage loans in the secondary mortgage market so that their lendable funds are replenished and, where necessary, purchase and hold those loans themselves where the established secondary market purchasers find that the loans do not meet underwriting standards.

Mr. Chairman, as a tribal leader I must look beyond the world of financing housing on the reservation and look at the entire context of the reservation economy. From this perspective, I would like to recommend that your Committee consider ways in which you might also assist tribes in financing needed physical infrastructure and other forms of economic development on the reservation. Our organization conducted a survey of all Indian tribes and the highest existing need of all the tribes is the need to finance infrastructure. In this respect, the most promising option to finance infrastructure is to make use of tribal authority to issue bonds. However, very few tribes have been able to exercise their ability to issue government purpose and private activity bonds due to the restrictions on the Tribal Government Tax Status Act which Congress imposed in the 1988 Tax Amendments.

I know that further amendments to the tax code are outside the jurisdiction of this Committee but there may be other initiatives which would be helpful. For example, there are very important practical constraints on tribes in making use of their existing bond financing authority that could be addressed. Like most rural governments, tribal

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governments do not have "in-house" expertise to put bond issues together, and, when they involve relatively small amounts of money, we find that the issuance fees can be prohibitively high. Unlike most county or small municipalities, we do not have access to State financing offices who traditionally assist in packaging and taking such bond issues to the marketplace. This would seem to be a function that could be performed by tribal organizations if they could use the financial resources authorized under this bill for such purposes. I would like to respectfully request that you consider clarifying, if necessary, whether this bill could be interpreted as authorizing such a role for tribes.

Mr. Chairman, thank you again for the invitation to present testimony to your committee on this important legislative proposal. I shall be pleased to answer any questions you or your committee members may have and I sincerely hope that this much needed legislation can be expedited for passage in this session of the Congress.

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TESTIMONY BEFORE THE U.S. HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

February 27, 1996

By Jacqueline L. Johnson, Chairperson
National American Indian Housing Council

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**SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
OF THE
COMMITTEE ON BANKING AND FINANCIAL SERVICES**

**HEARING ON THE NATIVE AMERICAN HOUSING ASSISTANCE
AND SELF-DETERMINATION ACT OF 1996**

**TESTIMONY
FEBRUARY 27, 1996**

Introduction

Kus'een yo_xat duwasakwak, Lukaxadi a'ya'a_xat, Yeith hit dax nax_sataee Kagwaantaan yadi. Chairman Lazio and members of this Subcommittee, my name is Jacqueline Johnson, my Tlingit name is Kus'een. I am a Raven Sockeye from the Raven house. I am the Chairperson of the National American Indian Housing Council, and the Executive Director of the Tlingit-Haida Indian Housing Authority located in Juneau, Alaska. In addition, I am Vice-Chairperson of the Juneau Tlingit-Haida Tribal Council, and a board member of the Alaska Housing Finance Corporation.

Mr. Chairman and members of this Subcommittee, I appreciate the opportunity to testify today on this important legislation. It is an honor to speak about housing for Native Americans who continue to be among the most poorly housed people in the United States. I also want to thank the Subcommittee's staff who have worked hard on drafting this historic legislation. They have constantly solicited our ideas and welcomed our comments. To me, Mr. Chairman, this is truly a bill that represents the democratic process and the voice of the people it most directly affects. The Subcommittee's staff and your commitment have made this possible and I am most sincere when I say *"thank you."*

Leading a New, Proactive Movement

I am proud to be the chairperson of the National American Indian Housing Council (NAIHC), a twenty-one-year old association, that represents approximately 187 Indian Housing Authorities (IHAs)[1] across the United States. Today, IHAs manage about 80,000 units, house some 250,000 persons, and are considered the **major providers** of housing in Indian Country. Today's IHA managers are becoming vocal, proactive innovators in their search to provide decent, safe, sanitary affordable housing for all their people.

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[1] IHAs are created under tribal ordinance by tribes with the police powers to create governing entities and by state legislatures in those areas where such powers do not exist. Primarily, IHAs carry out the Department of Housing and Urban Development's (HUD) Indian housing program.

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During the past two years, in the wake of federal downsizing and funding cutbacks, NAIHC has led its member IHAs through the perilous waters of a major sea change. IHAs have to quickly adjust to deregulation while learning how to squeeze even more from underfunded programs that do not meet the acute needs of today. In the face of so much future uncertainty, dwindling federal resources, and sure change, tribal leaders and administrators of Indian housing programs have met the challenges straight-on, gathering dignity and strength from one another, while learning to speak with a unified voice for their peoples in need. That need, Mr. Chairman, is acute.

An Acute Need

As I have testified previously before you, the overwhelming, continuing need for housing for Indian peoples throughout the United States threatens the well-being of far too many Native American communities. In states like Nevada, North Dakota, South Dakota, Montana, Arizona, Alaska and Maine, Native Americans are the most impoverished rural people.[2] Mr. Chairman, in your own state of New York, there are approximately 13,400 Native Americans living in rural communities or reservations; almost 20 percent have incomes below poverty.[3] In the state of Nebraska, the Vice-Chairman's state, there are more than 5,500 Native Americans living on reservations and in rural communities; more than 47 percent of whom are living below the poverty level, and of that number 56 percent are children under the age of eighteen.[4]

Comparably, the poverty status for rural American Indian/Eskimo/Aleut persons of the total United States is 36.6 percent live below poverty, with 43.11 percent of them children under the age of eighteen. Figures for American Indian rural poverty far exceed the levels found throughout the United States. The percentage of rural people below the poverty level in the U.S. is 12.96 percent, of which 16.67 percent are children under the age of eighteen.[5] The reality of what these children and families suffer daily in overcrowded, substandard homes should speak to the heart of every American, until we cannot live with it any longer, and begin to act responsibly to change these conditions.

Mr. Chairman, my people remain poor and so is their housing. Current estimates place the need at between 90,000[6] and 125,000 units of new or rehabilitated, renovated or modernized housing. In Indian Country there are far too many homes without potable running water, toilets, plumbing or waste systems, heat, or electricity. Too many of our people live in homes with no insulation, in need

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[2]"State Data Sheets:An Overview of Poverty and Housing Data from the 1990 Census". Housing Assistance Council, Washington, D.C., 1994. Comparison of rural population percentages using State Data Sheets. Comparison with Blacks, Whites, Asian Pacific and Hispanics rural populations.

[3]"Taking Stock of Rural Poverty and Housing for the 1990s". Housing Assistance Council. Washington, D.C. 1994. p. B-4.

[4]Ibid.

[5]Ibid. Pg. B-2.

[6]Bureau of Indian Affairs Housing Needs Inventory. 1992

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of new roofs and foundations--homes that are pieced together of scrap wood, tin, plywood and cardboard with dirt floors. Homes that lack kitchens and bathrooms - where the residents eat outside and bathe at neighbors' houses. This is our national disgrace -- our national shame that in the United States of America today on the brink of the 21st century such conditions exist.

We must reverse this situation. A great partnership must form -- of the public and private sector. Acting *together,* in one great concerted effort, will open the pathway to change. Five months ago, when I testified before you, I gave you all these statistics...they have not changed, but we are witnessing the changing of attitudes of those in Indian Country. Tribal leaders and IHA administrators are opening their hearts and minds to new, proactive, innovative thinking. These are encouraging, positive signs for all our people.

Daily, a growing number of IHAs are taking proactive steps by exploring ways to maximize federal funding. Now, IHAs and tribes are opening dialogues with private sector banks and lenders. They are attending, more than ever before, workshops on alternative housing financing. The Section 184 Indian Housing Loan Guarantee Program, a program created in 1992 under the guidance of this Subcommittee and Congressman Bereuter, has been a motivating factor in getting banks to negotiate with IHAs. Also, the National Strategy for Homeownership--Native American Partners, in which Fannie Mae, HUD, the VA, NAIHC, and other public/private entities are joining together to educate and train IHA staff about homeownership and removing barriers to homeownership on tribal lands, is also having a beneficial effect. At NAIHC, we have witnessed an increase in the demand for training and technical assistance in housing finance that far outweighs availability at this time.

These are all encouraging signs that IHAs and Indian Country are successfully meeting the enormous challenges before them. The Act under consideration today will help to change the way business is done at IHAs and in Indian Country. It includes many reforms that spring from an NAIHC position paper developed last July. Three major reforms are particularly important to IHAs.

- At last, there is an Indian housing bill that is for *Indian housing*. We have long sought a bill that separates Indian housing programs from public housing and recognize the uniqueness within Indian Country.

- In addition, a block grant will give IHAs the flexibility to identify local needs and set priorities.

- Indian housing management plans will help communities approach housing, comprehensively and holistically--for ***all*** the people on our reservations and villages.

These are enormous, positive steps forward for Indian Country.

Mr. Chairman and members of this Subcommittee, Indian people are on the road to self-determination and we need a full partnership with the United States Congress! While we applaud the legislation in its entirety, there are seven areas that are still of concern. We respectfully make the following recommendations:

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Recommendations

First, the definition of "tribally designated housing entity" (TDHE) needs clarification. It must be clear that TDHE means Indian housing authority, or the entity under which the tribe is currently providing housing. In the language of the bill, a "TDHE" is *different* from an IHA, in that the tribe will have the capability to *expand* the IHA's responsibilities to include functions other than the operation and maintenance of HUD units. Over the last twenty-five years, IHAs have worked very hard to perfect a housing delivery system and this must be maximized. Tribes have already designated their IHAs to be the tribally designated housing entity and that designation should be recognized at the tribe's discretion. In addition, the bill requires the continued operation and maintenance of the IHA's existing units. *An IHA* is best equipped to undertake these responsibilities. Please include language that will clarify the definition of "TDHE."

Second, please allow a one or two-year period for transition. The bill makes the reforms effective October 1, 1996. Again, this deadline is too soon and is overly burdensome for most IHAs, especially small ones, which have only limited staff and financial resources. Only a few tribes and IHAs have the in-house capacity to write a Local Housing Management Plan. They will need extensive preparation or technical assistance to prepare their plans. In addition, a variety of new policies and procedures will need adoption. IHAs need to prepare for a carefully planned transition that will avoid mistakes that could cause problems later. Please add a section to the bill that allows for a transition period, possibly aimed to begin with the 1998 fiscal year appropriations.

Third, please remove the cap on administrative fees (Section 101. (f)). The bill places an administrative fee cap on grant funds. Administrative expenses such as planning and administrative expenses related to affordable housing activities would fall into this category. An administrative cap is not necessary and should be part of the local planning process. The TDHE will automatically set a cap as it develops its Local Housing Management Plan. The TDHE's plan will describe the activities it plans to undertake and, consequently, will design a budget allowing a reasonable fee. If it allocates a high administrative fee, it cannot undertake the housing activities in its LHMP. It will then fall into "noncompliance" and other safety mechanisms will take over.

In addition, the relative administrative costs vary tremendously among IHAs. For example, their geography, level of income and climate all alter costs. NAIHC recommends that the administrative fee be set locally with guidance outlined in regulation.

Fourth, please insert language that will assure subsidy support will not be reduced as IHAs develop additional income. We are striving to make up for greatly reduced appropriations. IHAs will need to retain all their earnings from their programs to leverage other dollars for affordable housing activities and to develop replacement reserves. These earnings are vitally important to IHAs that are working with the private sector. It will cause a great hardship if subsidies that are already inadequate or our block grant be further reduced. Please do not penalize our initiatives.

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Fifth, please insert language that will provide for technical assistance. The bill proposes many changes and a new approach for developing housing for IHAs. While most IHAs embrace the challenges ahead, some IHAs, particularly those small IHAs[7], believe that the changes will be extremely difficult. They recognize that they do not have the technical capacity to undertake many changes. For example, developing and writing a comprehensive housing management plan will require resources that some IHAs simply do not have. To deny them participation in this program, means that thousands of Native Americans will not receive housing.

In addition, while many IHAs are becoming proactive and moving into housing finance, it does not mean they are without fear. Many IHAs are afraid of private financing, fearing that they will lose their land in the "fine print" of some legal document signed, but not fully understood. Many IHAs, especially small ones with high rates of poverty, worry that their reservations and communities will not provide many credit worthy applicants. Many IHAs also do not know where to go to get the expertise on *how* to start, or carry to completion, new projects with the private sector. Once a project is approved, an IHA must be fully apprised of the subsequent steps. Technical assistance is a vital key to the process of creative housing finance.

The housing finance arena is very new to Indian Country, unlike the rest of the United States. This situation is similar to the early years of Indian housing which followed public housing by 25 years. Indian housing stumbled for many years as it mimicked the urban programs modeled for public housing authorities. The lessons were painful and ones from which Indian Country has never fully recovered. I hope that history does not repeat itself as we follow American homeownership into the twenty-first century. The lessons, in this instance, will be far more damaging and destructive than those earlier. At all costs, we must protect and preserve our gains over the last twenty-five years.

Indian Country needs technical assistance to move into the private housing finance arena. NAIHC believes the transition in the legislation will be easier if technical assistance is provided. Please seriously consider inserting a provision that will give grant recipients the technical assistance that will prepare them for the challenges ahead.

Six, please insert language that will set up a small loan fund program. At the beginning of the 104th Congress, Congressman Don Young introduced legislation creating a Native American Financial Services Organization (NAFSO). This legislation created a technical services organization for Native Americans linked to the Community Development Financial Institutions (CDFI) program. Using the CDFI format, NAFSO would provide technical assistance to set up lending institutions at the local level. These institutions, Native American Financial Institutions (NAFIs), would become lenders and servicers at the local level.

NAIHC continues to support NAFSO legislation. It recognizes, however, that since funding for CDFI is uncertain, the prospects for NAFSO are also uncertain. Indian Country needs NAFSO!

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[7] The majority of IHAs operate with 500, 250 or fewer units. Only 18 of the 187 operate with 1,000 units or more. HUD Office of Native American Programs, Histroy and Status Report, January 1993.

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NAIHC proposes that the Subcommittee consider inserting language into this bill that will allow for a loan fund program to be set up. The loan fund program would provide small loans to help private housing projects undertake preliminary feasibility studies, environmental reviews, etc. It could also provide bridge loans needed until permanent financing came through or matching funds that help set up a NAFI. The loan fund program could be combined with the technical assistance I mentioned above. In essence, Mr. Chairman and members of this Subcommittee, I encourage you to not disregard the NAFSO legislation because of its link to CDFI. This is an important program to Indian Country and will help us move beyond our dependence on federal dollars.

Seventh, please remove or redefine all references to the 1937 U.S. Housing Act. The bill contains several references to the 1937 U.S. Housing Act especially in the "Definitions Section." Terms such as "family" or "low and very-low income families" are referenced to the 1937 U.S. Housing Act. Currently, legislation is before this Subcommittee to repeal the U.S. Housing Act of 1937. NAIHC requests that these terms be defined, instead of referenced to an act that may be repealed.

Important Steps on the Path to Self-Determination

With the realization that HUD's funding is so uncertain, IHAs are preparing for a different way of doing business, acknowledging that they must prepare for a future where federal funding is *not* the only resource. It does not mean that IHAs will not need *any* federal assistance in the future. With the depth of our people's poverty, it will be years before we pull ourselves out of the despair that consumes so many of us. But, we have found our voice, and we are beginning to openly acknowledge that federal assistance is not our only resource. In that acknowledgement we are taking important proactive steps forward to self-determination -- to design alternative funding programs.

Proactiveness explains why, last spring, the NAIHC membership directed its staff to develop a position paper for Congress. In response to this directive, in late June 1995, NAIHC brought together a task force of twenty-eight IHAs and tribal leaders. The task force identified areas that needed reform to strengthen housing programs in Indian Country. A position paper, written and submitted to Congress in early August, was based on these reforms[6]. In summary, the paper asked for the following:

1. federal recognition of trust responsibility to house Native Americans,
2. separation from public housing,
3. flexibility in block grants, such as
- *a. an allocation formula developed in consultation with tribes,*
- *b. the ability to set priorities,*
- *c. total program funding flexibility,*
- *c. funding directly to tribes and tribally designated entities or state housing authorities, and*
- *d. funding appropriated in five year commitments.*

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[6]Position Paper on the Future of Indian Housing. National American Indian Housing Council. July, 1995.

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4. authorization of an institution that will aid in mortgage lending,
5. continuation of HUD's Office of Native American Programs,
6. the authorization of technical assistance dollars to build capacity,
7. the development of a comprehensive plan program
8. the ability to develop a holistic approach to the delivery of housing and related services, and
9. the ability to develop cooperative partnerships with various entities beside HUD.

In September, NAIHC's Board of Directors approved the paper.[9] Also, the National Congress of American Indians, the association of tribal leaders, approved it in November 1995 at its annual convention. The NAIHC Position Paper formed the basis of the bill under consideration today.

In Summary

Mr. Chairman and members of this Subcommittee, NAIHC enthusiastically supports this legislation and greatly appreciates your efforts to reform the Indian housing program. The Subcommittee has worked very hard to reform a program that will meet our needs. The reform is based on an NAIHC Position Paper, approved by Indian housing authorities and tribal leaders. It will improve Indian housing and help to lead our people into stronger paths of self-determination in the next century.

Mr. Chairman, Indian housing authorities are proactively exploring new, innovative ways to house their people. Proactiveness is a new found power and one that is growing in strength, daily. This power will carry us proudly forward into the future that must be secure for our children. Nothing matters as much as securing our children's heritage, our culture, and providing safe, decent, sanitary, affordable homes in which our children can grow and learn and mature, until they too complete the full circle of life.

On behalf of all the people whom we serve, and a representative of the Indian housing community, NAIHC strongly urges you to pass this legislation and to encourage all your colleagues to do so. In this time of change, we must move forward and for Indian Country, it is time to take the first historic step. Thank you, Mr. Chairman.

[9]Please see attached Position Paper.

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National American Indian Housing Council Position Paper on the Future of Indian Housing August 18, 1995

FORGING A UNIFIED VOICE FOR INDIAN HOUSING

In response to calls for federal downsizing, and the reduction or elimination of certain federal housing programs that will negatively and drastically affect Native American communities, a working group of twenty-five Indian housing authority (IHA)[1] professionals, IHA Board of Commissioners members, and tribal representatives from throughout the United States, gathered in Washington, D.C. on June 28-29, 1995.

The goal of the two day meeting was to come together to forge a strong, unified voice for Indian housing. The resulting position paper reflects a vision for the future of Indian housing. This vision addresses the concerns of IHAs, sets goals for IHAs in cooperation with their tribal governments, and outlines basic foundational steps in forming new Indian housing legislation. New legislation is *mandatory* to help move Native Americans beyond federal dependency, toward independence and self determination, by the year 2000, and even beyond.

NAIHC LEADS THIS INITIATIVE

The National American Indian Housing Council (NAIHC) is an association of 187 Indian housing authorities (IHA). At NAIHC's Annual Convention in April, 1995, the membership passed Resolution 95-09 requesting that NAIHC "explore a variety of housing operation options for IHAs and tribal governments, and define parameters of operation for IHAs..."[2] On May 15, 1995, NAIHC's Board of Directors was also presented with and approved a resolution passed by the Tri-State

[1]IHAs are organized under tribal ordinances by tribal governments with the police powers to establish such entities and under state laws in states where tribes do not have such powers. IHAs are responsible for carrying out the Department of Housing and Urban Development's (HUD) Indian housing programs.

[2]NAIHC Resolution 95-09 passed by the membership in April, 1995.

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Regional Indian Housing Association[3]. The resolution requires NAIHC to be pro-active in preparing IHAs for the future, and recommends a paper be presented to the United States Congress, giving Congress direction for the future of Indian housing. (Appendix A - Copies of the resolutions.)

I. BACKGROUND: GREAT POLITICAL CHANGE

On November 8, 1994, a dramatic and historical political change hit this country - in the 104th United States Congress, the Republican Party took control from the Democratic Party. For the past forty years, the Democratic Party had controlled the U.S. House of Representatives; since 1987, they had also controlled the Senate. The House Republicans theorize their electoral success was based on a "Contract with America" - a ten-point promise to change the federal government. The Contract with America promises "Fiscal Responsibility" to "restore ... an out-of-control" Congress.[4] This promise has translated into moves to reduce the federal government and to cut federal spending.

Since the 104th Congress has been in session, it has worked diligently on its promises. Legislation to eliminate federal agencies has been introduced in both chambers. A rescission bill rescinding approximately $16.5 billion from 1995 congressional appropriations passed the House of Representatives in late March and the Senate in early May, 1995. Budget Resolutions also passed both chambers balancing the federal budget within seven years.

Congress must cut federal spending by billions of dollars every year to meet budget targets. These cuts, most likely, will come from domestic programs that Republicans believe are bloated with unnecessary spending. HUD, an agency that receives funds for various housing and community development programs, is among four[5] federal agencies that is being targeted for either elimination or severe downsizing. The 1995 proposed rescissions fell particularly hard on HUD, which accounted for almost 40% of the $16.5 billion rescinded.

Immediately after the November 8 election, rumors of HUD's elimination began circulating. In an effort to head off such attempts, HUD Secretary Henry Cisneros quickly took steps to streamline the agency. He proposed consolidating more than sixty programs into three, transforming the public housing rental program into a tenant-based voucher program and privatizing the Federal Housing

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[3] Tri State Regional Association of Michigan, Wisconsin and Illinois.

[4] "Contract with America". U.S. House Republican Conference. 1010 Longworth House Office Building, Washington, D.C. 20515

[5] The other Cabinet level departments are the Departments of Commerce, Energy and Education which are targeted in Budget Resolutions passed by both chambers.

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Administration.[6] Indian housing was also to be consolidated into the three programs and its rental program transformed into a voucher program.

IHAs, housing some 260,000 persons, realize that change is certain. *But, where do they look to change?* More than 30 years of federal housing programs has resulted in dependent reliance upon these federal programs. If public or federal funding is diminishing, can IHAs realistically look to the only other alternative - the private sector - to help meet their massive needs?

Due to complex trust land issues, a private housing finance sector has never developed in Indian Country. Private lenders are reluctant to go onto reservations, communities or villages to develop financing instruments that will work on trust lands. They have been intimidated and discouraged by complex land issues, a time-consuming Bureau of Indian Affairs (BIA) bureaucracy, unfamiliar tribal court systems and their own industry's rigid rules and regulations. Even with a low risk program like the Indian Loan Guarantee Program,[7] which provides a 100% guarantee, private lenders are cautious about moving into Indian Country. This cautious movement is coming too late to offset the drastic reductions in federal funding currently being proposed by the 104th Congress. IHAs and the people they serve feel unprepared to manage. Some IHAs even feel so threatened, they fear for their survival.

II. IHAs – THE MAJOR HOUSING PROVIDERS

Throughout Indian Country, IHAs are the major housing providers, providing some 55% of housing on Indian reservations primarily through HUD's federal housing programs for Native Americans. Today, IHAs manage more than 75,000 units, using two major programs - a rental program and a home ownership program. **No other federal agency or department allocates as much housing funds to Indian Country as HUD.** The average Native American family is 3.57 persons [8]. This means that IHA homes accommodate more than 267,750 of the approximately 600,000[9] Native Americans living on reservations/communities or Alaska villages. It should be noted that 40% of the Native American population rents public housing, compared to 14% of the general American population (excluding Native Americans, Alaska Natives and Aleuts.) This reflects a commensurably higher poverty rate.[10] The acute need for housing among Native Americans, however, is further

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[6] The process is described in HUD's "Reinvention Blueprint" released in December, 1994.

[7] The National Affordable Housing Act of 1992 authorized the Indian Loan Guarantee program (Section 184) which was appropriated $1 million in 1993; $3 million in 1994 and in 1995.

[8] U.S. Commerce Department. Bureau of Census, American Housing Survey, 93, National Sample.

[9] Ibid.

[10] U.S. Commerce Department. Bureau of the Census, American Housing Survey, 93 National Sample.

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exacerbated by the fact that often more than one family is housed within one unit. This means that the ***need is far greater than the numbers reflect.***

III. CONCERNS

Knowing that public funds will diminish and private dollars are not yet available, the working group that gathered in Washington, D.C. intensely expressed its concerns. With great emotion, members of the group wondered "what will happen to our children, grand children, great grandchildren, great, great grandchildren... How will they be housed? Where will money come from? What is ultimately going to happen to Indian people? How will IHAs maintain what they have worked so hard to build?[11] How do they build strong healthy communities? Where do they focus their energies?"

Their heartfelt concerns reflect an underlying great need that springs from pervasive poverty, a lack of secure economic bases, overwhelming social problems, high unemployment rates and an acute need to house their people.

In 1990, the BIA undertook its last housing inventory needs assessment. The assessment found that approximately 56,000 new homes were needed, and 34,000 homes needed substantial repair in Indian Country.[12] These numbers do not reflect current needs, needs due to population growth, nor the needs of Native Americans who desire to move back to their homelands. In the past five years, Indian housing has received appropriations to build an average of 2,200 units a year.[13] **At such a rate, it will take almost a quarter of a century just to meet 1990 needs for new homes.**

IV. A VISION OF THE FUTURE

The working group addressed its concerns by envisioning the future of Indian housing. Their vision extended beyond federal dependency and focused on strengthening the growth and independence of Indian people by the year 2000, and beyond.

A Vision to...

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[11] According to the 1993 Annual Report of the Department of Housing and Urban Development's Office of Native American Programs, the Indian housing stock is worth approximately $8.5 billion.

[12] "A Report on the Bureau of Indian Affairs' Consolidated Housing Inventory." Housing Assistance Council, Washington, D.C. July, 1992. p. 22.

[13] U.S. Department Housing and Urban Development, 1993 Annual Report, pg.4 "Over the past thee years, a relatively stable level of funding has been available for the construction of new Indian housing units with appropriations averaging over $200 million per year."

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Create opportunities to meet the housing needs of all Native Americans, by enhancing partnerships between Indian housing authorities, tribal governments, and other resources that foster self-determination and independence, while recognizing that a government-to-government relationship exists between Indian tribes and the federal government, and federal trust responsibilities to Native Americans.

It is essential that the federal government continue to recognize its trust responsibilities to Native Americans, based on treaties, statutes and proclamations. The roots of the federal government's trust responsibility lie in the long history of the relationship of the United States to tribal governments -- a government-to-government relationship. This trust responsibility must be the cornerstone of all changes proposed in these budget cutting times.

What is the federal trust responsibility?

The federal trust responsibility is the principle which governs the relationship between Indian Tribes and the federal government to establish and protect the rights of Indian Tribes and their people, the principle having evolved through case law and consistently recognized in treaties, executive orders, agreements with Indian tribes, case law, statutes, and their interpretations.[14] *The trust responsibility is a fiduciary responsibility which governs the federal government's relationship with Indian tribes and Indian people. This relationship should be acknowledged by the federal government while simultaneously allowing Indian tribes the flexibility to carry out their social and moral obligations to their Indian people.*

IHAs and tribal governments are not asking for a handout. They acknowledge that dependence on the federal government creates unhealthy, psychologically, dependent people. *Circumstances, however, in Indian Country are uniquely different from the rest of America.* Many conditions, cultivated and fostered by the federal government, exist and to reverse these trends now will take time. Tribal governments and IHAs want to move housing graciously toward independence in the 21st century, but years of federal intervention inhibit an immediate, smooth transition.

It is possible to meet trust responsibilities and create balanced, vibrant, healthy communities. Indian Country is willing to take the first steps but it cannot take all the steps alone. **The federal government must share in the walk forward and it must realize that it took years to get to the point at which Native communities are today, and it will take years to change. Walking together, however, will make stronger Native American communities and a richer America.**

[14]See Cherokee Nation v. Georgia, 30 U.S. 1 (1831).

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V. GOALS TO REALIZE THE VISION

The working group adopted the following set of six goals that it will communicate to its regions for future implementation. These goals are offered here as a reminder of the partnership that must exist between the federal government, IHAs and tribal governments. Each will contribute to the whole.

Goal # One: Establish mechanisms and models for achieving financial strength.

To move forward, tribes and IHAs should begin looking for ways to strengthen and broaden their financial bases. They should first develop a variety of successful mechanisms and models that will leverage public and private funds. It may be necessary to revisit existing public housing programs (e.g. Sect. 248, or USDA/Rural Housing Community Development housing programs) to streamline processing and encourage easier access.

The capacity to use all private sector loan programs that are now available must be developed among tribal members. Tribes need to identify and promote underwriting criteria for credit worthiness that will increase the number of tribal members who qualify for loans. Some tribes and IHAs are beginning to establish financial development corporations or coalitions - one way in which they believe financial strength can be enhanced.

Goal # Two: Maximize and/or develop cooperative partnerships with various entities (Indian tribes, other IHAs, Congress, and financial industries and business, etc.).

This goal recognizes that tribes and IHAs should work in their own backyards to become a strong, united force. They should look beyond federal housing resources to partnering with businesses, colleges, non-profits, unions, laborers, etc. located in, or nearby, their communities. To be effective partners, however, they should be aware of their own strengths. They should begin now to pool resources, compile and gather data, establish communication networks, hold national and regional legislative conferences, and centralize all Indian housing information.

Goal # Three: Develop a Comprehensive Housing Development Plan

Tribes and IHAs should identify and assess their housing needs, comprehensively. They should look at the complete needs of their diverse populations. Comprehensive plans should include needs for the disabled, homeless, low-income, middle-income, home buyers, roads, water/sewer, land, administration, etc. Then, they will be equipped to diversify and access funding from a wide variety of sources to meet those needs. Comprehensive plans should also include an evaluation component to monitor progress.

Goal # Four: Develop a holistic approach to the delivery of housing and related services.

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Tribes and IHAs should enhance community awareness about how housing is delivered and the services the IHA and the tribe offer, through regularly-scheduled information meetings, a monthly newsletter, and housing personnel participation in tribal functions. IHAs and tribes could also conduct home buyer counseling courses for applicants and residents, working with tribal agencies to establish a case management approach to serving tribal members.

> ***Goal # Five:*** ***Develop a marketing program to educate and advocate nationally on Indian housing issues (Congress, tribes, state governments, private sector).***

Tribes, IHAs and their national organizations must coordinate and organize their advocacy efforts. The efforts should be spearheaded by tribal governments because they are the recognized governmental entities for Native American causes. In addition, there is a great need for educating the public as to all the needs in Indian Country. This is particularly important if partnerships are to be formed. As well, national Native American organizations should be informed about each other and their activities coordinated. The national media should be used whenever and wherever possible.

> ***Goal # Six:*** ***Guarantee continued funding for the implementation of tribal comprehensive housing plans through the recognition of the federal trust responsibility.***

Tribes should advocate to Congress for *all* the housing needs in their communities, constantly reaffirming the trust responsibilities of the federal government, and its need to provide housing based on treaty obligations. It is in the best interests of Indian Country to speak with a unified voice, to keep Congress informed and to clearly identify all funding needs and required appropriations.

VI. THE FIRST STEP - *New Indian Housing Legislation*

To accomplish its goals within the framework of its vision, the working group recognized the need for new Indian housing legislation. The wheels of government are already in motion for this action. The 104th Congress is in the initial stages of writing a new housing act.

The first step toward meeting these goals is for Native American communities, and particularly those persons involved in housing programs, to have an active role in writing this new housing bill. An *active partnership with the federal government is* the key to forming this new legislation. IHAs believe the time is now -- to take this bold new step toward the future.

NAIHC makes these recommendations, as the basic foundation, for incorporation into the new legislation:

1. ***The federal government must recognize its trust responsibility to Native Americans.*** Indian housing is not a social program but a fulfillment of trust obligations by the United States government to sovereign tribal nations. These promises were made by the federal

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government to tribal governments, acknowledging them as sovereign nations. The federal government must acknowledge that it provides housing to Native Americans because of historical promises made to tribes in treaties.

2. ***Indian housing should be "separated" from public housing. (Either under a separate Indian housing act, or a separate title in a new housing act.)*** In the past, Indian housing statutes, regulations and programs were modeled after public housing. Since public housing programs are geared toward urban conditions, they are inappropriate for rural, isolated, impoverished communities, where housing is acutely needed by the majority of the population.

3. ***Block grants should allow for total program flexibility.*** IHAs accept Congressional proposals for block grant funds, yet IHAs and tribes must have full local control, concerning the ability to decide their own needs, set their own priorities, calculate their own rent structures, design their own construction wages, and make other decisions that affect them directly.

   A. Developing a formula for distribution - HUD, in collaboration with tribes and IHAs, must design a formula for distributing the block grant funds that is fair and equitable. The formula should accurately depict the extent of housing needs on American Indian reservations and communities and Alaska native villages.

   B. Deciding own needs - Tribes and IHAs should undertake a formal, documented needs assessment. Setting priorities and designing comprehensive plans should be based upon a tribe's own identified needs. These needs shall include roads, water/sewer; special needs such as for the elderly, disabled or the homeless; housing and housing related services; rehabilitation, etc. on a reservation/community/village wide basis. Tribes and IHAs can then decide if the IHA should manage all federal housing programs under one coordinated, comprehensive plan.

   C. Total program funding flexibility - IHAs should use all resources to develop and leverage funding alternatives. IHAs must be free to build creative partnerships with the private sector to design a variety of models that will meet their diverse needs--using a variety of public funds, and/or combining various public and private programs to meet those needs.

   D. Funding directly to federally recognized tribal governments, tribally designated entities[15] or state Indian housing authorities[16] - Funding should go directly to

[15]Tribally designated entities have legally contracted with the tribe to manage the tribe's housing program.

[16]Federally recognized tribes with state statutes authorizing the IHA to manage the housing program.

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federally- recognized tribal governments. In cases where such tribal governments do not have the powers to create IHAs and other entities have been created or designated, funding shall go to such entities. Only federally recognized tribes shall be eligible for this funding.

E. Funding should be appropriated in five year commitments - It is in the best interests of tribes and IHAs to plan for the long-term. Within that framework, Congress should seek to make commitments for a period of five years, identifying the amount that will be allocated each year. Therefore, both partners benefit.

4. ***Authorization and appropriation of an institution that will aid mortgage lending, providing initial and secondary markets to Native American mortgages.*** The U.S. Senate has introduced legislation that creates a Native American Financial Services Organization (NAFSO) S.436. NAFSO's purpose is to stimulate local lending and set minimum levels of participation by Fannie Mae and Freddie Mac. Such a bill is required to help overcome legal barriers presented by restricted land status, and to move Indian Country beyond federal dependence, develop private lending models, and stimulate tribal economies.

5. ***Maintain HUD's Office of Native American Programs (ONAP)***- Currently, there are bills before Congress to eliminate HUD. NAIHC does not support these bills. If Congress ultimately decides, however, to eliminate or dismantle the agency, NAIHC requests that HUD's Office of Native American Programs (ONAP) be kept intact and moved to HUD's successor. (ONAP has already been consolidated and streamlined and manages all of HUD's Native American programs.) **NAIHC strongly opposes any move to put the Indian housing program at the Bureau of Indian Affairs.**

6. ***Authorize technical assistance dollars*** - Changing years of administrative practices and implementing new approaches, will require intensive effort. To immediately maximize precious federal dollars without waste means IHAs and tribal governments will need extensive technical assistance. NAIHC strongly recommends authorizing language that will provide funds for technical assistance to help carry out the many changes now facing Native American communities.

VII. VISION INTO ACTION

In conclusion, an **active partnership** means that the federal government, IHAs and tribal governments will empower one another. The problems of the past can be reversed. Longed-for "hope" can translate into a new reality. For most Native American communities, that have lived on the edge of survival for far too long, the reality must change.

For their part, IHAs recognize that their own communities need to be more united - that they must build stronger relationships with their tribal governments, their residents and others within their

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communities. They also realize they must begin to reach beyond their immediate communities to resources outside. They must build creative partnerships with all available resources and they must begin now. Indeed, many have already begun to take those first steps.

Partnerships are absolutely necessary to ensure that our people are housed in decent, safe, sanitary, affordable housing. And, that our children grow up in wholesome, healthy, economically strong, viable communities. Our children, and our children's children, deserve no less.

Now, we look to members of the 104th Congress for their commitment to a new partnership.

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SUBCOMMITTEE ON HOUSING AND COMMUNITY
OPPORTUNITY
OF THE
COMMITTEE ON BANKING AND FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

HEARING ON THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996

TESTIMONY
by
Jolene Nertoli, Executive Director
Sault Ste. Marie Tribe of Chippewa Indians
Sault Ste. Marie, Michigan

FEBRUARY 27, 1996

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SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
OF THE
COMMITTEE ON BANKING AND FINANCIAL SERVICES

HEARING ON THE NATIVE AMERICAN HOUSING ASSISTANCE
AND SELF-DETERMINATION ACT OF 1996

TESTIMONY
FEBRUARY 27, 1996

INTRODUCTION

Chairman Lazio and members of this Subcommittee, I appreciate the opportunity to testify today on this Act. It is an honor to speak to you today about housing for Indian people. My name is Jolene Nertoli and I am the Executive Director of the Sault Ste. Marie Indian Housing Authority which is located in Sault Ste. Marie, Michigan. I am proud to represent the Sault Ste. Marie Tribe of Chippewa Indians. Our tribe is a direct descendent of the Ojibway native people and we are located in the northeast corner of the Upper Peninsula of Michigan along the Canadian border.

My housing authority, Mr. Chairman, is among the most progressive and well-managed in the United States. It was created more than 20 years ago by the Sault Ste. Marie Tribe of Chippewa Indians. The IHA has approximately 280 homes under management at this time. In addition, it has more than 100 that are in various stages of rehabilitation and 45 in new construction. I have worked for the housing authority for almost 16 years.

Mr. Chairman and members of this Subcommittee, as a representative of the Sault Ste. Marie Tribe, I want to state that we *support* the Native American Housing Assistance and Self-Determination Act of 1996. There are many items in the Act that we believe will benefit tribes and we appreciate the efforts you have made to assure that this legislation will have a positive impact upon our communities. There are, however, areas in the bill that we believe need further consideration and we strongly encourage you to consider our comments.

SECTION 2: CONGRESSIONAL FINDINGS

The Sault Ste. Marie tribe is pleased and supports the congressional findings section that

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recognizes the federal government's unique responsibility to Native American people. This responsibility includes assistance to tribes and tribal members to help them improve their socio-economic conditions which include the recognition to provide a *means* for affordable and healthy homes for Native Americans. This section includes direct housing assistance, as well as assistance in the development of a private housing finance mechanism that will promote self-sufficiency and self-determination for tribes.

The Act designates that housing assistance be given directly to the tribes or a tribally designated entity thereby giving tribes more responsibility and control. We support this provision because in the past, tribes were required to develop a tribal ordinance that separated the Indian housing authority from the tribe. This was done, in large, for funding and litigation purposes. It encouraged, however, divisiveness between the Indian housing authority and the governing body or tribe. As a result, in some instances, this separation has caused a loss of direction in providing housing for tribal members and in meeting all their housing needs.

SECTION 3: ADMINISTRATION THROUGH OFFICE OF NATIVE AMERICAN PROGRAMS

It should be noted that most tribes already have created Indian housing authorities through tribal ordinances. The tribal ordinance has delegated the housing responsibility to the housing authority which should be sufficient to create "Tribally Designated Housing Entities" as defined in the Act. The Sault Tribe supports this provision as it is one way in which the Act gives tribes more control over the funding and direct responsibility for future housing. It also eliminates the separation of the Indian housing authority from the tribe.

Those of us in Indian housing have been working for a very long time for the separation of Indian housing from public housing. I am very supportive of this provision and thank you for making it a part of the Act. This separation will enable us to address the uniqueness of our people and our cultures. Many regulations imposed by public housing have often adversely affected Indian housing programs.

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I am also pleased that the Department of Housing and Urban Development's Office of Native American Programs will continue to have the responsibility for implementing the Indian housing program after its separation from public housing. This Office has worked hard to meet our needs, understand our cultures and our people. I believe that the future holds greater opportunities for us with this separation and the Office of Native American Programs is the one government office that is most appropriate to help us move forward.

SECTION 101: BLOCK GRANTS

I recognize the advantages of a block grants system which can be used for housing operations, development, rehabilitation, acquisition and support services. I am concerned, however, that this change from the present funding method will be difficult for some tribes and their tribally designated housing entities. Many existing Indian housing authorities have not managed block grants before and will require extensive assistance as they gather information and adapt to a block grant method.

They will also require transition time, much more than what is allowed in the Act, which has an implementation time frame beginning October 1, 1996. In addition, a great deal of training and technical assistance will be needed as we adapt policies and learn new procedures. **I strongly encourage you to allow us time to make the transition from our current operations to the block grant method. Also, I strongly recommend that Congress help us build the capacity to implement this new form of operation with funds for training and technical assistance.**

In addition, it has long been a concern among Indian housing authorities, especially small ones, that they have enough funds to operate. This Section allows a small percentage (7.5%) of the grant for administration. This will adversely affect many tribal housing programs. A minimum base for operations should be established with an operations formula. It can be adjusted accordingly to meet the needs of a program size. It is not possible to operate a successful program if there are not enough funds to pay staff. Regardless of the size of the authority, there are certain basic needs that must be met for operation. **Please remove this cap on administrative fees and allow the administrative fee to be set through an operations formula based on local needs.**

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In addition, Section 101 requires coordination with grants that provide for loan guarantees. We need to process grants without being hampered for the sake of Section 184, the Indian housing loan guarantee program, or any other loan guarantee program. This is a burdensome requirement that will create obstacles. **I recommend that this not be a requirement but a recommendation instead.**

It is important that the Act be kept as simple and straight forward as possible. In keeping with simplicity, tribes should be *encouraged*, not required as stated in the Act, to work with public and private organizations or to coordinate activities with guaranteed loan programs as I stated above. These requirements may hinder some tribes instead of help them implement housing programs that are suited to their needs. **I recommend that you remove these provisions or make them optional.**

SECTION 102: LOCAL HOUSING MANAGEMENT PLANS

I support the Local Housing Management Plan concept and believe that it will definitely benefit the tribe. It will provide direction and consistency in meeting housing needs as well as create a working relationship between the tribe and tribally designated housing entity where one may not have existed before. **I strongly recommend, however, that regulations governing this provision be flexible.**

SECTION 104: OTHER PROGRAM REQUIREMENTS

Davis-Bacon has been a major concern for Indian housing authorities because it drives the cost of construction up and often times creates disparity in tribal wages. Tribes must be allowed to conduct their own wage survey and pay prevailing wages based on the local economy. This will enable more consistency within tribal operations and not create a false economy. **Please remove all references to Davis-Bacon.**

SECTION 106: ENVIRONMENTAL REVIEW

Our tribe has developed its own environmental department which deals with the Environmental Protection Agency. We support this section of the Act as it enables the tribe to

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continue its goal of self-determination and responsibility for tribal lands. Thank you for this provision.

SECTION 302: ALLOCATION FORMULA

Mr. Chairman, I am concerned about the formula allocation process that is needed to distribute the block grant. According to the Act, all existing Indian housing programs will be terminated as of October 1, 1996. No method of allocation, however, has been developed at this time. This formula allocation is one of the most critical elements of the Act and I feel the formula allocation methodology will be the determining factor of support for the Act by tribal governments. **I strongly support the statement that there will be tribal representation in the development of this formula, but I also strongly recommend that the formula allocation be in place prior to enactment.**

SECTION 401: REMEDIES FOR NONCOMPLIANCE

I recognize that a tribe or tribally designated housing entity, receiving these or any types of funds, should be held accountable. If the grantee, however, is found in noncompliance, it should have the ability to appeal the decision to HUD and then to an administrative judge. This would be "due process". **It should not be initiated in U.S. Court of Appeals. Please remove this provision.**

OTHER COMMENTS

Lastly, Mr. Chairman and members of this Subcommittee, I have a concern about a provision that is not in the Act - the provision for funding for the Drug Elimination Program. When this program was initiated in our housing program, the communities' enthusiasm was tremendous. This was an opportunity for tribal families to deal with their concerns of growing drug use and gangs on the reservation.

We have been able to address these issues through drug education, teaching of Anishnabe culture, traditions, values and language that incorporates living in good, balanced life-style. This has

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become an intricate part of our community and the loss of this funding and support will have a negative impact on our families. **Please provide a provision for the Drug Elimination Program, with additional funding, or clearly state in the Act that such a program, including security, can be supported with block grant funds.**

Mr. Chairman and members of this Subcommittee, thank you for the opportunity to testify before you today. This Act is comprehensive and the Sault Ste. Marie Tribe supports it. We believe that it is a step forward for Indian housing and will allow us to improve the housing conditions for our people. We ask, however, that you consider the concerns we have expressed today.

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APPENDIX A

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NATIONAL AMERICAN INDIAN HOUSING COUNCIL
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RESOLUTION 95-09

A RESOLUTION, regarding directing the NAIHC Board to develop a position paper on the HUD "Blueprint."

WHEREAS, NAIHC is a nonprofit association of housing authorities (IHAs), representing 187 IHAs; and

WHEREAS, the stated purpose of the organization is to promote advocacy for policy and legislative changes which will favorably impact our primary goal of providing safe, decent, and affordable housing for Indian people and employment opportunities to the greatest extent possible; and

WHEREAS, it is imperative that IHA's and tribal governments develop a comprehensive housing plan that will preserve the existing housing they operate and administer in their programs for tribal members and,

WHEREAS, the integrity and neutrality of the IHA operation has provided a structure which has been insulated from political bases and influences and,

WHEREAS, the existing program structure and administration has protected the tribes by assuring them immunity from suit and by providing secure financial stability of the housing program and,

WHEREAS, the IHA's must present a unified philosophy in how the recipient will effect change within the fiscal quarter of operations.

NOW, THEREFORE BE IT RESOLVED, that the IHA members of the NAIHC hereby request that the NAIHC Regional Board members develop an operative tool, in the form of a position paper, that will explore a variety of housing operation options for IHAs and tribal governments, and define parameters of operation for IHAs, along with tribal governments, and allow for a comment period from IHAs.

FURTHER RESOLVED, that this tool provide a logical framework that will enable IHAs and tribal governments to make informed and educated decisions and choices on how to address housing needs of tribal members and their families.

Vote: Resolution 95-09 Passed.

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As the duly appointed Secretary for the National American Indian Housing Council, I hereby certify Resolution # 95-09 was approved at NAIHC's 21st Annual Convention in Honolulu, Hawaii, April 10-12, with a quorum present.

Secretary Virginia Kizer

Chairperson, Jacqueline L. Johnson

Date

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Association of Michigan, Minnesota and Wisconsin Indian Housing Authorities

RESOLUTION 95-01

WHEREAS, the Tri-state Indian Housing Association put forth on April 12, 1995, and the NAIHC membership passed, NAIHC Resolution 95-09 directing NAIHC to "develop an operative tool in the form of a position paper that will explore a variety of housing operation options for IHAs and tribal governments"; and

WHEREAS, the Tri-state Indian Housing Association is increasingly concerned about the future of the Indian housing program in the light of serious Congressional budget cuts; and

WHEREAS, Congress has stated to the leaders of NAIHC that Indian housing needs to plan for the future in preparation of "reinventing" HUD; and

WHEREAS, the Association believes that Indian housing authorities must be pro-active in preparing for the future.

NOW, THEREFORE BE IT RESOLVED that NAIHC Board of Directors develop a position paper on the future of Indian housing as directed in NAIHC Resolution 95-09. NAIHC is encouraged to appoint an Indian housing working group to undertake this task in order to gather input from IHAs.

BE IT FURTHER RESOLVED, that NAIHC prepare the paper so that it may be distributed to Congress before July 30, 1995. This must include a two-week comment period from IHAs.

CERTIFICATION

The above Resolution No. 95-01 was passed at a Quarterly Meeting of the Association of Michigan, Minnesota and Wisconsin Indian Housing Authorities on May 11, 1995. At this Quarterly Meeting there was a quorum of the membership with 14 Housing Authorities present. The vote was 14 for; 0 against; 0 abstaining. Therefore, the Chairman of the Association declared the motion passed.

George Mosan, Chairman

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TESTIMONY

OF

JOEL R. THOMPSON, EXECUTIVE DIRECTOR,

HOUSING AUTHORITY OF THE CHEROKEE NATION

BEFORE

THE SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

OF THE

HOUSE COMMITTEE ON BANKING AND FINANCIAL SERVICES

ON

THE NATIVE AMERICAN HOUSING ASSISTANCE

AND SELF-DETERMINATION ACT OF 1996

FEBRUARY 27, 1996

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TESTIMONY OF JOEL R. THOMPSON

Mr. Chairman and members of the Subcommittee, thank you for this opportunity to provide testimony regarding the Native American Housing Assistance and Self-Determination Act of 1996, important legislation to reform Indian housing programs.

My name is Joel R. Thompson, and I am a member of the Cherokee Nation of Oklahoma, located in 14 counties of northeastern Oklahoma with our Capitol at Tahlequah. I am the Executive Director of the Housing Authority of the Cherokee Nation with over 4,300 housing units under management in the Low Rent, Section 8 and Mutual Help Homeownership Opportunity Program administered by the U.S. Department of Housing and Urban Development (HUD). I also am currently serving as Chairman of the Board of Directors of AMERIND Risk Management Corporation, the self-funded insurance pool which provides coverage for more than 70,000 housing units throughout Indian Country.

BACKGROUND INFORMATION

The Housing Authority of the Cherokee Nation was organized pursuant to a statute of the State of Oklahoma which permitted the creation of Indian Housing Authorities. However, our local governing body is the Cherokee Nation and members of our Board of Commissioners are appointed by our Principal Chief Joe Byrd. Each Commissioner's appointment is then approved by our 15 member Tribal Council. Our mission is to provide decent, safe and affordable housing and homeownership opportunities for our tribal members now numbering over 170,000. Many of the more than 80,000 tribal members, residing within the 14 county jurisdictional service area of the Cherokee Nation, live at or below the poverty level and in conditions considerably more severe than those of the non-Indian populations. In more than 25,000 homes, Cherokee is spoken as a first language, a testament to a proud people whose culture and language are of paramount importance, in spite of their living conditions.

The Housing Authority of the Cherokee Nation has seen dramatic growth over the last 8 years. Our annual budget has grown from $8 million to $30 million and our work force has increased from 65 to 250 employees. In 1990, the Authority accomplished a first. We completely paid off our obligation under the Old Mutual Help Program, thereby assisting 750 Cherokee families in the achievement of homeownership. We presented the HUD Assistant Secretary for Public and Indian Housing with a check for more than $880,000. This advance payment saved the federal government an estimated $4 million! At that time no housing authority, public or Indian, had ever accomplished such a feat, but we did. This was only possible with the efficient management of the Housing Authority of the Cherokee Nation and the desire of the families to achieve their dream of owning their homes.

Since that date, more than 550 additional housing units have been developed at the average rate of one every three days, with Indian contractors, craftsmen and material suppliers leading the way. These homes were "stick built" as opposed to modular. Believe me, this is no easy feat. It earned the Housing Authority the Department of Housing and Urban Development's recognition for "Sustained Excellence" in the administration of housing programs for the previous two years.

We have been and still are good stewards of the public's money. Our tenants accounts receivable for the Low Rent program seldom exceed 2% and our Mutual Help average is less than 6.5%. We believe in hard work and take pride in a job well done.

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COMMENTS ON "THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996"

Let me begin by commending you, Mr. Chairman, for your tremendous receptivity and willingness to work with Tribes and Indian Housing Authorities (IHAs) to develop legislation to approve Indian housing delivery. Your attitude and dedication mean as much or more to us than the actual provisions in your proposal.

Mr. Chairman, I provided the background information above as context for the brief comments I will offer on your ambitious proposals contained in the Native American Housing Assistance and Self-Determination Act of 1996. The Housing Authority of the Cherokee Nation is a prime example of an IHA which has grown not only in size but also in sophistication over the years. We successfully leverage federal programs available for housing and other assistance to Native Americans with whatever other outside financing we can identify. While there may be legitimate complaints about the strictures placed on the delivery of housing in Indian Country, by federal public housing laws, we have learned to make those federal housing programs work for us, for the most part. So please accept my comments as constructive suggestions from an IHA that does not necessarily share the view that Indian housing should be split apart from public housing in order to fulfill successfully the federal obligation to provide adequate, affordable housing in Indian Country.

We are <u>not</u> averse to change; in fact, we believe that change is very healthy. We look forward to working with you to ensure that Indian housing legislation, intended to improve delivery of housing in Indian Country, actually will achieve that goal.

<u>Block Grant Proposal</u>: The idea to bundle all federal funding for Indian housing programs grew out of roundtable meetings held several years ago by numerous tribal leaders. It is fully consistent with the concept of Indian self-determination and self-governance. My concerns about the block grant proposal are based on the mechanism for becoming eligible for block grant funding and the way the grant money will be allocated.

Section 102 of the proposal conditions receipt of block grant funds on the submission to the Secretary of a Local Housing Management Plan for such fiscal year. Fortunately for tribes with IHAs, such as the Housing Authority of the Cherokee Nation, section 102(d) would deem the requisite plan submitted and approved by the Secretary prior to January 1, 1996 -- that is, a comprehensive plan under the Comprehensive Modernization Grant Program ("CGP") or Comprehensive Improvement Assistance Program ("CIAP") under section 14(c) of the 1937 Housing Act -- as sufficient. Section 102 of the bill represents a substantial benefit to tribes with existing IHAs, because presumably they are among the first pool of eligible applicants for block grant funds. Thereafter, however, the bill may necessitate amendments to the plan deemed submitted, and such amendments could be very costly to prepare and submit, even for existing IHAs. A tribe which does not currently have an IHA or other tribally designated housing entity, will have to incur substantial expense to prepare all of the information required to be included in the plan.

As just one example, the proposal envisages preparation of a Comprehensive Housing Affordability Strategy (CHAS), a requirement from which tribes have been exempted for some years. While such a strategy is essential (and I have so advocated), nevertheless its preparation

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requires substantial surveying and study. Many tribes may not have the financial resources to conduct such surveys and research, and the pending proposal offers no financial assistance to help defray the costs of such work. If the tribe cannot afford to prepare the information necessary to submit a plan to the Secretary, then the tribe is not eligible for any block grant funding.

Another example is the proposal's requirement to include in the plan a description of capital improvements necessary to ensure long-term physical and social viability of housing currently financed by programs authorized by the Housing Act of 1937. The plan also must include priorities for capital improvement of such housing based on analysis of available financial resources, etc. Currently, HUD funds improvements to existing Indian housing almost as a matter of course. The proposal suggests that a grant recipient will have to budget for capital improvements out of its block grant funds, which makes sense except if capital improvements is expansively defined as including infrastructure. Tribes and IHAs in more remote areas may well be disadvantaged if their costs for capital improvements are very high (because they really include infrastructure costs as well) and are deemed by the Secretary not to provide affordable housing that will be viable on a long-term basis at a reasonable cost pursuant to section 103(f)(3)(B).

"Recipient" of Block Grant Funding: I can well appreciate the Chairman's difficulty in developing legislative provisions that alter the delivery of Indian housing funds to native communities. Currently most Indian housing funding flows to IHAs, although some federal funds (e.g., HUD's HOME program and the Bureau of Indian Affairs' HIP) flow to tribes. Use of the term "recipient" may accommodate the transition to an alternative distribution method. My recommendation is to draft the bill language so that the recipient of block grant funding is an existing IHA unless a tribe has none. Only in that case should the tribe determine which entity is the appropriate recipient, the tribe or another tribally designated housing entity. A related suggestion is that the definition of "tribally designated housing entity" in section 4(11) be amended to mean "(A) an entity other than the tribal government that . . . ; or (B) any Indian housing authority that . . .)". In other words, the conjunctive word "and" should be amended to read "or."

Allocation of Block Grant Funds: Section 301 of the proposal states that the Secretary shall allocate any amounts made available under the Act for the fiscal year, in accordance with a formula established pursuant to section 302, among Indian tribes that comply with the Act. Section 302 repeats the reference to block grants "among Indian tribes" and then discusses formula factors that reflect the need of the Indian tribes and their areas for assistance for affordable housing activities, including the number of low income housing dwelling units developed or operated by the existing IHA, the extent of poverty and economic distress in the areas of the tribe, and other objectively measurable conditions. Presumably the allocation will be based on the number of eligible applicants, but the use of the word "among" tribes may cause confusion. I recommend that the allocation formula be based on the grant applicant's need and size of its user population and the length of its waiting list for housing. Allocations should in no way be made on a pro rata or per tribe basis. A second concern is that, initially, the number of eligible applicants may be far fewer than the potential applicant pool, due to the time and cost that will be involved in preparing the Local Housing Management Plan. It would be heartbreaking, indeed appalling, if the second year of appropriations for the block grant are

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significantly reduced based on a smaller than anticipated number of first year applicants' submissions. Whatever can be done to protect against any funding diminution must be done.

Loan Guarantees under Title VI: The Loan Guarantee title of the proposal, modeled after section 108 of the Community Development Block Grant Program, is very intriguing. There is no question that Indian Country needs access to additional financing. The proposal recognizes the problem and provides guarantees to assist a tribe in obtaining financing if it has been unsuccessful in obtaining financing without a guarantee. To ensure that this provision effectuates the good that it intends, we recommend that the word "affordable" be used to qualify the "financing" authorized. In other words, a tribe may well be able to obtain financing but at usurious interest rates. To be of real help, the provision should permit a guarantee to assist a tribe in obtaining "affordable financing" under certain conditions. My second recommendation relates to section 602's provision for security and repayment of notes and other obligations incurred by a tribe. We believe that the discretion given the Secretary in section 602(a)(3) is too broad in that it suggests a tribe may have to waive its sovereign immunity or give up its rights to trust and other restricted lands as security for the guarantees contemplated in Title VI. In general, tribes and IHAs welcome the guarantee concepts embodied in Title VI and hope other decision makers will be as receptive.

Amendments to the 184 Loan Guarantee Program: This program deserves reauthorization and continued funding. While it may have been underutilized in its start up phase, the 184 Loan Guarantee Program promises substantial benefit to Indian Country. It will help spur what is so urgently needed in Indian Country -- access to financing in our local communities.

INDIAN COUNTRY'S URGENT NEED FOR ACCESS TO FINANCING

Back in 1992, the Congressionally chartered National Commission for Native American, Alaskan Native and Native Hawaiian Housing issued a critically important report identifying many barriers to providing adequate housing for Native people. The most profound barrier noted then and still is access to credit through local lenders. While there are nearly 850,000 American Indians, Alaskan Natives and Native Hawaiians who live on or near their traditional homelands, very few commercial banks or thrifts exist in Indian Country. Instead, HUD is the predominant source of funds and units for Indian housing -- nearly 44 out of 100 are HUD units compared to 3 out of 100 units provided through other channels. These numbers underscore the dependency of Native people on publicly assisted housing programs. These statistics also illustrate the need for an alternative approach to the financing of housing units that would combine local investment with secondary mortgage market access.

In 1992, the National Commission recommended enactment of legislation to create a Native American Financing Authority. After much woodshedding of HUD, Treasury and OMB, a new approach evolved. It is embodied now in HR 2412, by Representative Don Young (R-AK) and S. 436, by Senator Ben Nighthorse Campbell, as the Native American Financial Services Organization Act of 1995. The NAFSO proposal offers a way to infuse capital into Indian Country. The NAFSO proposal would create a two-tier scheme with NAFSO at the national level providing technical assistance, and Native American Financial Institutions ("NAFI") at the local level to meet native communities' needs for housing, infrastructure and economic

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development. It also would authorize the NAFSO to provide much needed secondary mortgage market support and access. NAFIs, as private enterprises, can combine, coordinate and leverage assistance now available in programs administered by HUD, Bureau of Indian Affairs and Farmers Home Administration. The NAFSO approach will expand the housing options for Native families and begin to address the overwhelming need of 70,000 to 100,000 new or rehabilitated housing units.

Currently, the NAFSO proposals tie into the Community Development Banking and Financial Institutions Act (CDFI), making CDFI Fund monies available for an approved application from a Native American Financial Institution, or NAFI. Although NAFSO would be enhanced with the leveraging potential of the CDFI Fund, NAFSO is not necessarily dependent on it. NAFSO provides great opportunity for the private sector to enter into a market which is in great need of financial services but which, to date, has been largely ignored. A mechanism would still exist to establish financial institutions that are not available to Native Americans now. Primary lending in Indian Country is needed, it is desirable and it is worthwhile.

An analysis of the 1990 Census provides a clear picture of how passage of NAFSO could address the difficulty of Native Americans in obtaining mortgages. As of 1990, 51.4% of Native Americans with homes on reservations, trust lands or allotted lands own them without a mortgage. These "homes" are generally in poor condition and are overcrowded. There is no mortgage for any of several reasons. First, the homeowners may have had no access to mortgage credit. Second, restrictions against alienation may prevent a lender from repossessing the home in the event of loan default. Therefore, the owners simply have built whatever could be afforded so as to put a roof over their familys' heads. Otherwise, the alternative would be to wait interminably on a long waiting list for federal housing assistance.

In this country, there are 795,751 households in which either a Native American or Alaskan Native is identified as head of household. Of this number 448,292 (56.3%) own their own home. Some 226,984 (59.6%) have incomes greater than 80% of median income. These are the people who would access private financing to improve the impoverished conditions of their homes if private financing were available to them. They have the need and the income to pay. What they lack are the financial services traditionally associated with primary lending institutions, which most Americans take for granted. NAFSO would provide, through NAFIs, the financing mechanisms needed to bring these homes up to date, provide essential amenities (such as plumbing) and ease overcrowding.

Mr. Chairman, in closing, I would like to thank you and your fine staff for the hard work you already have dedicated to the Native American Housing Assistance and Self-Determination Act of 1996. We look forward to working with you to refine the proposal and work in the NAFSO concept as well. Thank you for this opportunity to present testimony on these dynamic proposals.

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